

11-2001

Spaceball (Or, Not Everything That's Left is Postmodern)

Dennis W. Arrow

Follow this and additional works at: <https://scholarship.law.vanderbilt.edu/vlr>



Part of the [Legal Writing and Research Commons](#)

Recommended Citation

Dennis W. Arrow, Spaceball (Or, Not Everything That's Left is Postmodern), 54 *Vanderbilt Law Review* 2379 (2001)

Available at: <https://scholarship.law.vanderbilt.edu/vlr/vol54/iss6/4>

This Essay is brought to you for free and open access by Scholarship@Vanderbilt Law. It has been accepted for inclusion in Vanderbilt Law Review by an authorized editor of Scholarship@Vanderbilt Law. For more information, please contact mark.j.williams@vanderbilt.edu.

Spaceball (Or, Not Everything That's Left is Postmodern

Dennis W. Arrow

54 Vand. L. Rev. 2381 (2001)

Given law-school postmodernism's epistemo/ontology of juvenile anti-realist agnosticism, its commitment to Gadamerian and/or Derridean notions of linguistic indeterminacy, its monomaniacal dedication to centrifugal end-justifies-the-means Lefty politics, its abhorrence of commonly recognized conceptions of neutral principle, its concomitant disrespect for the very notion of truth, and its inextricably intertwined obsession with names and propensity for linguistic doublespeak, Professor Arrow confesses to initially wondering what it might "mean" to take anything uttered by a postmodernist "literally," or at "face value." But undaunted by that "paradox," Professor Arrow not only takes up Feldman's challenge to "critique postmodernism on its own terms" (by playing a pantomime Spaceball game with Feldman), but also critiques it logically—and (gasp!) pragmatically (not "pragmatically"). Maintaining the tonal and stylistic "playfulness" to which law-school pomoers profess to aspire (but in no known instance have achieved), Professor Arrow assures the reader that there will be numerous interesting (not "interesting") plot twists along the way. In the process, Professor Arrow also offers speculation about the way in which the postmodernists' ultimate contribution to American law schools is likely to be assessed—but cautions (as is appropriate under the circumstances) that you'll have to find it in a footnote.

Spaceball (Or, Not Everything That's Left is Postmodern)

Dennis W. Arrow*

I.	INTRODUCTION	2383
II.	THE GAMBIT	2396
III.	THE KROTOSZYNSKI CRITIQUE	2398
IV.	FELDMAN AT THE BAT	2402
A.	<i>Prolegomenon to Any Future Screwballs (or, A Neo-Neo-Kantian Critique of ANY Reason Not Supportive of Neo-Marxist Envy and Class Struggle)</i>	2405
B.	<i>The Seventh-Inning Stretch</i>	2408
C.	<i>The Bottom of the Ninth</i>	2410
1.	I Just Don't "Get It"	2410
2.	The "Unconnected" and "Nonsensical" Nature of Pomobabble's Footnotes	2415
3.	Parodies Are "Mean-Spirited"	2416
4.	I Don't Critique Pomo On Its Own Terms	2420
5.	Pomo Can Be Political	2422
D.	<i>Feldman the Modernist</i>	2423
E.	<i>Arrow the Postmodernist</i>	2426
F.	<i>An Extra Inning</i>	2428
V.	CONCLUSION	2432

* Professor of Law, Oklahoma City University. As always, I express my appreciation to Ju-Chuan Arrow, my colleague and "very special one"—but especially in this instance for suggesting the "Spaceball" name. I also express my appreciation to my colleague and friend Paula Dalley for her always-valuable comments, and to Professor Stephen Feldman for laying it all on the line.

JENNY JONES: Boy, we have a show for you today!

Recently, . . . Richard Rorty made the stunning declaration that nobody has "the foggiest idea" what postmodernism means. . . .

Today we have with us . . . a recovering postmodernist . . . who believes that his . . . career and personal life have been irreparably damaged by the theory, and who feels defrauded by the academics who promulgated it. He wishes to remain anonymous, so we'll call him "Alex."

Alex, as an adolescent, before you began experimenting with postmodernism, you considered yourself—what?

Close shot of ALEX.

An electronic blob obscures his face. . . .

ALEX (his voice electronically altered): A high modernist. Y'know, Pound, Eliot, Georges Braque . . . I had all of Schönberg's 78's.

JENNY JONES: And then you started reading people like Jean-François Lyotard and Jean Baudrillard—how did that change your feelings about your modernist heroes?

ALEX: I suddenly felt that they were, like, stifling and canonical.

JENNY JONES: We have some pictures of young Alex. . . .

We see snapshots of 14-year-old ALEX reading Giles Deleuze and Felix Guattari [] . . . The AUDIENCE oohs and ahs.

ALEX: We used to go to a friend's house after school . . . and we'd read, like, Paul Virilio and Julia Kristeva. . . .

JENNY JONES: . . . Why?

ALEX: I guess—to be cool. . . .

JENNY JONES: And do you remember how you felt the very first time you entertained the notion that you and your universe are constituted language—that reality is a cultural construct, a "text" whose meaning is determined by infinite associations with other "texts"?

ALEX: Uh, it felt, like, good. I wanted to do it again.

—MARK LEYNER¹

"I have a problem," Maddy explained, and it turned out to be a moral problem. Was Concepcion REALLY the best we could do? Yes, she was Chicana. Yes, she was lesbian. Yes, she knew her Barthes. But Barthes? Really? Wasn't he getting just a little passé? Wasn't there some danger that in the life and pursuit of theory,² Roland Barthes—and with him, poor Concepcion, for whom she felt deep concern—was about to be left behind? Part of the fascination of literary discourse today, Maddy explained—turning toward the fools, who could not be expected to know this—was the short-lived nature of theory itself. Styles in theory were changing faster than

1. Mark Leyner, *Geraldo, Eat Your Avant-Pop Heart Out*, N.Y. TIMES, Dec. 21, 1997, § 4, at 11 (ellipses between paragraphs omitted), available at LEXIS, News Library, NYT File.

2. See generally Dennis W. Arrow, *Pomobabble: Postmodern Newspeak and Constitutional "Meaning" for the Uninitiated*, 96 MICH. L. REV. 461, 659 (1997) [hereinafter Arrow, *Pomobabble*] (defining "theory"—in Pomoland: "[E]motion' homogenized with 'democratic breakfast' [Foucault Flakes] . . . 'rhetoric' . . . ; but maybe if we . . . repetitively and cumulatively incant . . . 'theory' enough . . . , the 'uninitiated' will think it means *theory*, and 'we'll' gain not only 'power' but unearned academic 'self(?)-esteem'; see generally 'the Wizard'; all variants obsolete.").

styles in clothing. That's what made theory so exciting, as Eleanora Tuhe herself so often said. Here today, gone tomorrow. Could Concepcion keep up? Or was she doomed to be merely a Barthes clone?

—JOHN L'HEUREUX³

Rehash. Rehash.

—RULES FOR POSTMODERNISTS⁴

I. INTRODUCTION

It should come as no surprise that "postmodernism" had a substantial (if mostly transitory) appeal to some law professors during the '90s. It came from humanities departments.⁵ It was French.⁶

3. JOHN L'HEUREUX, *THE HANDMAID OF DESIRE* 254 (1996) (contemplating life[?] and the tenuring process at a prominent Bay Area university).

4. ANDREW BOYD, *LIFE'S LITTLE DECONSTRUCTION BOOK: SELF-HELP FOR THE POST-HIP* Nos. 233-34 (1998) [hereinafter *RULES FOR POSTMODERNISTS*]; cf. Stephen M. Feldman, *Diagnosing Power: Postmodernism in Legal Scholarship and Judicial Practice (with an Emphasis on the Teague Rule Against New Rules in Habeas Corpus Cases)*, 88 NW. U. L. REV. 1046, 1047 (1994) ("Postmodernism just keeps reproducing itself: the doing of postmodernism seems to occur again and again." (emphasis added)); YEVGENY ZAMYATIN, *WE* 17 (Clarence Brown trans., Penguin Books 1993) (1924) ("Simply by turning this handle, any one of you can produce up to three sonatas per hour."). But cf. ALDOUS HUXLEY, *AFTER MANY A SUMMER DIES THE SWAN* 282 (Elephant Paperbacks 1993) (1939) ("Drivel," Mr. Propter repeated.).

5. Cf. Arrow, *Pomobabble*, *supra* note 2, at 525-26:

In a proximate vein is the possibility that "it" might be a desire among some academicians to have their fields perceived as being at the center . . . of the intellectual "action," cf. L'HEUREUX, *supra* note [3], at 32 ("Then there was this Kurtz to consider, and his little conspiracy. A small man. An ambitious man. He wanted to be at the center of things . . ."); [STANLEY] ARONOWITZ, [ROLL OVER BEETHOVEN] . . . 7, 17 [(1993)] ("[A] polyglot of humanists and social scientists have loosely affiliated under the sign of 'cultural studies'—a heading derived from the FAMOUS Birmingham Centre for Contemporary Cultural Studies . . . which, for most of its almost thirty-year existence, was assiduously ignored. . . ." (emphasis added)); [Daniel] Zalewski, . . . [Written on the Face, LINGUA FRANCA, Sept. 1997, at 19, 19] ("the inner corners of the brows drawn together and upward, cheeks raised, slight deepening of the nasolabial fold, and slight depression of the lip corners"); but cf. D.A.F., *Post-Modern Dental Studies*, 4 CONST. COMMENTARY 219, 221 (1987) ("Never before has dentistry been so much in the forefront of the revolutionary social thought of an epoch."); Rick Perlstein, *Depreciate This!*, LINGUA FRANCA, Sept. 1997, at 12, 13-14 ("This is where the critical accounting 'theorists' come to town, armed with citations from Foucault and Marx . . ."); Frank Lentricchia, *Last Will and Testament of an Ex-Literary Critic*, LINGUA FRANCA, Sept.-Oct. 1996, at 59-60 ("It is impossible . . . to exaggerate the heroic self-inflation of academic literary criticism."); W.J.[T.] Mitchell, *Introduction* [to] AGAINST THEORY: LITERARY STUDIES AND THE NEW PRAGMATISM], at 1-2 [(W.J.T. Mitchell ed., 1985)] ("[T]heory has . . . become one of the 'glamour' fields in academic literary study.") . . .

6. Well, sort of. See ARONOWITZ, *supra* note 5, at 16:

While the "French" turn in Anglo-American cultural theory appears predominant . . . most of the work of the schools loosely known as structuralism and poststructuralism are elaborate metacritiques on works that emanate from German philosophy, particularly the Kantian and Hegelian traditions, with a more than liberal dose of Nietzsche, Husserl, and Heidegger. Kant and his epi-

For the increasingly utopian "New-Man" academic Left⁷ that had found its premises empirically falsified by the implosion of this planet's Marxist utopias,⁸ pomo's mystical strains⁹ provided the same emotional comfort that mysticism has provided to the vanquished after other cataclysmic intellectual or political events.¹⁰

gones provide the referent for nearly all the major French philosophers and social theorists from Lacan, Lévi-Strauss, and Althusser to Derrida and Foucault.

But cf. LEO N. TOLSTOY, *WHAT IS ART?* 36 (Aylmer Maude trans., Liberal Arts Press 1960) (1896) ("[H]owever cloudy the Germans may be, the French, once they absorb the theories of the Germans and take to imitating them, far surpass them in uniting heterogeneous conceptions into one expression and putting forward one meaning or another indiscriminately."). *See generally* GEORGE DUMAURIER, *TRILBY* 41 (Peter Alexander ed., W.H. Allen 1982) (1894) ("Paris! Paris! Paris!!! The very NAME had always been one to conjure with" (emphasis added)); Arrow, *Pomobabble*, *supra* note 2, at 528 n.29 (noting that in the pomo-spoofing academic cartoon *Breakfast Theory*, the motto of *Foucault Flakes* cereal is "It's French, it must be good.").

7. *See, e.g.*, Robert Post, *Lani Guinier, Joseph Biden, and the Vocation of Legal Scholarship*, 11 CONST. COMMENT. 185, 192-93 (1994) ("The community of legal academics seems to have turned *en masse* to higher lawmaking. There is an ever-growing predominance of utopian scholarship in the law reviews; within elite schools utopian accents have become almost *de rigueur*").

8. *See, e.g.*, TERRY EAGLETON, *THE ILLUSIONS OF POSTMODERNISM* 1-2 (1996) ("Imagine a radical movement [that] had suffered an emphatic defeat. . . . What if the left were suddenly to find itself less overwhelmed or out-maneuvered than simply washed up . . . ?"); Mark V. Tushnet, *The Left Critique of Normativity: A Comment*, 90 MICH. L. REV. 2325, 2346 (1992) (suggesting that some Left legal critiques are performances "aimed at shoring up confidence among left legal academics at a time when their project seems unpromising in the arena of politics and unsustainable in the arena of intellectual discourse"). *See generally* FRANCIS FUKUYAMA, *THE END OF HISTORY AND THE LAST MAN* (1992) (noting the sweeping extent of the triumph of liberal, democratic, capitalistic, western culture by the early 1990s). Jacques Derrida was manifestly troubled both by Fukuyama's announcement and the phenomenon. *See* JACQUES DERRIDA, *SPECTERS OF MARK: THE STATE OF THE DEBT, THE WORK OF MOURNING, AND THE NEW INTERNATIONAL* 14-75 (Peggy Kamuf trans., 1994).

9. *See, e.g.*, Arrow, *Pomobabble*, *supra* note 2, at 491-502 n.24 (exploring the mystical influences on—and having just a wee bit of fun at the expense of—our postmodern hero, Saint Derrida); *cf. id.* at 612 n.45 (noting the canonization of Saint Foucault and the deification of Roberto Unger).

10. Although mysticism has ancient roots in Judaism, *see, e.g.*, DAVID R. BLUMENTHAL, *UNDERSTANDING JEWISH MYSTICISM* 5 (1978) (tracing the history of first-millennium Merkabah mysticism); DANIEL C. MATT, *THE ESSENTIAL KABBALAH* 4-5 (1995) (describing the mid-first millennium *Sefer Yetsirah*, which described God's creation of the world by means of the twenty-two letters of the Hebrew alphabet and the ten *sefirot*); BLUMENTHAL, *supra*, at 101 (describing thirteenth- and fourteenth-century Zoharic Kabbalism), the explosive spread of Kabbalistic mysticism following the expulsion of the Jews from Spain in 1492, *see, e.g.*, MATT, *supra*, at 13-15, furnishes a paradigmatic historical example. Closer to home, an additional example may be found in the Ghost Dance religion promulgated by the Paiute Messiah Wovoka in the late 1880s, after the cataclysmic wars with and culturally-limiting reservation policies imposed by the United States on Indian tribes in the 1870s and 80s threatened the annihilation of traditional ways of life. *Cf.* James Mooney, *The Ghost Dance Religion and the Sioux Outbreak of 1890*, in 2 *FOURTEENTH ANNUAL REPORT OF THE UNITED STATES BUREAU OF ETHNOGRAPHY* 1892-93 (1896), reprinted as JAMES MOONEY, *THE GHOST DANCE RELIGION AND WOUNDED KNEE* (Dover Publications 1973); John Rhodes, *An American Tradition: The Religious Persecution of Native Americans*, 52 MONT. L. REV. 13, 23-27 (1991). *See generally* RICHARD FARINA, *BEEN DOWN SO LONG IT*

But most importantly for would-be Messiahs not content with the unmessianic, unheroic roles assigned to mere law professors in American culture,¹¹ pomo provided a perceived pathway to power: a "method"¹² for "proving" *whatever you liked with whatever you had*.

Pretty heady stuff. Imagine a phalanx of plaintiffs' lawyers armed with magical "postmodern doodads"¹³ packed away in their Halliburton Zeroes. Or how 'bout a *really* haunting spectre: a cadré of "visionary" con law professors swarming the steps of the Big Court (*their* law-review-article- and doodad-stuffed briefcases more purposively downscale), ready to "prove" the constitutional necessity of . . . well, anything consistent with the Leftist Vision.¹⁴

LOOKS LIKE UP TO ME 232 (Viking Press 1983) (1966) ("To ease suffering, the method is easy. *Simply weaken the bond with reality.*" (emphasis added)).

Viewed in this context, the attraction of mysticism to late-twentieth-century French "intellectuals" should not be difficult to comprehend. Apart from the decline of French political and cultural influence generally, cf. J.M. Balkin & Sanford Levinson, *Constitutional Grammar*, 72 TEX. L. REV. 1771, 1771 (1994) ("The *Académie* . . . has grown increasingly concerned over the use of American words . . . by French speakers. . . . [T]he French Parliament [has] felt it necessary to add to the French Constitution the sentence 'The language of the Republic is French' . . ."); *id.* at 1771 n.2 (noting that the addition was in French), French "intellectuals" have been increasingly marginalized even within that culture, see Barbara Giudice, *An Era of Soul-Searching for French Intellectuals*, CHRON. HIGHER EDUC., June 13, 1997, at A41 ("That the influence of [French] intellectuals seems to be decreasing even as their visibility is increasing is a subject of consternation among them."); *id.* ("For example, the endorsement of Communist Party candidates by a group of leading intellectuals had no discernable impact on the party's popular support."). See generally Derek Schilling, *French Toast*, LINGUA FRANCA, Dec.-Jan. 1997, at 21 (noting that intellectual prowess is not a prerequisite to recognition as an "intellectual" by the *Dictionnaire des intellectuels français*).

11. Cf. Edward L. Rubin, *The New Legal Process, The Synthesis of Discourse, and the Microanalysis of Institutions*, 109 HARV. L. REV. 1393, 1396-97 (1996) (applying the premise to courts: "Institutional competence [analysis] . . . could readily generate an approach that resembles Kelsenian positivism, leaving courts with a delimited and decidedly nonheroic role.").

12. Because pomo's is ultimately a "there are no rules" method, calling it a "method" must induce a touch of vertigo (not to mention suspension of disbelief) in the rational. *But cf.* RULES FOR POSTMODERNISTS, *supra* note 4, No. 74 ("Treat rationality as just another tradition."); *id.* No. 36 ("Maneuver between pastiche and mishmash."); *id.* No. 314 ("Bullshit").

13. I gratefully award credit to Professor Stephen Feldman for coining the phrase—which is perhaps more revealing than he realizes. See Stephen M. Feldman, *Playing With the Pieces: Postmodernism in the Lawyer's Toolbox*, 85 VA. L. REV. 151, 161 (1999) (examining the jurisprudence of Cass Sunstein).

14. Since pomo (at least before its capture by Deconstruction) allowed you to "prove" (or "disprove") *anything*, of course, it wouldn't necessarily have *had* to be a Leftist vision. Given the Leftist capture of the American legal academy, though, there weren't enough conservative law professors to matter. See Dennis W. Arrow, "Rich," "Textured," and "Nuanced": *Constitutional Scholarship* and *Constitutional Messianism at the Millenium*, 78 TEX. L. REV. 149, 164-65 & nn.84-86 (1999) [hereinafter Arrow, *Messianism*]; J.M. Balkin, *What Is a Postmodern Constitutionalism?*, 90 MICH. L. REV. 1966, 1967, 1985 (1992); Tushnet, *supra* note 8, at 2325 n.1. In any event, the Lefties almost always have the Bigger Visions, and the totalizing politics (and Master Narrative) of class-struggle, neo-Marxist, power-paradigm-based Deconstruction has now fully enslaved purely theoretical law-school postmodernism. Cf. Stephen M. Feldman, *Made for Each Other: The Interdependence of Deconstruction and Philisophical Hermeneutics*, 26 PHIL. & SOC.

But the "postmodern" touchstones include such seemingly disparate (and facially, though perhaps not universally, unappealing) elements as:

juvenile linguistic, ontological, and epistemological agnosticism[,] . . . depression, nineteenth century romanticism, unfulfilled and undifferentiated emotional yearnings, water symbolism, Death-obsession, mysticism, reliance on untethered rhetoric, rejection of nature, putative self-abnegation, distortion of history, rejection of morality (while laying claim to it), claiming the mantle of pragmatism (while falling heels over head into the *abyss* of what John Dewey condemned as "sentimental gush"), obliviousness to secondary consequences, professed abhorrence of Manichean dualities (while applying dualistic thinking to condemn everything the postmodernists don't like), and from wordplays and morphing to pop culture and TV.¹⁵

Wherein could lie the power of *that*? Depression?¹⁶ (Perhaps psychologically appealing to some,¹⁷ and perhaps a contributing *cause*, but a major *strength*? Unlikely.) Death obsession?¹⁸ (Same comments.) Ecstatic romanticism?¹⁹ (Same comments.) *Nostalgie pour la boue*?²⁰

CRITICISM 51, 52 (2000) ("Philosophical hermeneutics and deconstruction should be understood as complementary postmodern philosophies. . . . As such, deconstruction counters the charge that philosophical hermeneutics is conservative; instead, a Derridean view suggests the radical political potential that resides within Gadamer's philosophical hermeneutics."). See generally Arrow, *Pomobabble*, *supra* note 2, at 630 n.46 (quoting Thomas Mann: "[T]here is . . . a discipline in which Queen Philosophy becomes a servant . . . a subsidiary branch of another; and that other is theology.").

15. Arrow, *Messianism*, *supra* note 14, at 155-56 (footnotes omitted).

16. Cf. Arrow, *Pomobabble*, *supra* note 2, at 521-24 n.29 (speculating on the phenomenon); *id.* at 584 n.39 (contemplating, *inter alios*, postmodernist icon Julia Kristeva). See generally FYODOR DOSTOEVSKY, *DEMONS* 387 (Richard Pevear & Larissa Volokhonsky trans., Vintage Classics 1995) (1872) (quoting Pyotr, the Urgent Marxist revolutionary: "Add some extra gloom, that's all, no need for anything else . . ."); JULIA KRISTEVA, *BLACK SUN* 5-6 (Leon S. Roudiez trans., Columbia Univ. Press 1989) (1987) ("[T]here is meaning only in despair."); ELIZABETH WURTZEL, *PROZAC NATION* 50 (1995) ("If I can just get in touch with the blue-collar blues[.]. . . I will be a . . . Marxian worker person, alienated from the fruits of my labor. That is all I want in life: for this pain to seem purposeful." (emphasis added)).

17. See, e.g., *Goth Talk*, *Saturday Night Live* (any episode) (spoofing the Gothic-depression pop-culture phenomenon). See generally KRISTEVA, *supra* note 16, at 33 (speculating that it may all pretty much be about chemicals).

18. See generally Arrow, *Pomobabble*, *supra* note 2, at 536-38 n.29 (speculating on the phenomenon); *id.* at 493 n.24 (contemplating, *inter alios*, proto-postmodernist Martin Heidegger); *id.* at 498 n.24 (exploring the relationship between Death-obsession and apocalyptic Visionarianism).

19. See generally *id.* at 513-16 n.29 (contemplating several incarnations of the phenomenon); *id.* at 573-92 n.39 (noting that the phenomenon has nothing to do with love); *id.* at 650-55 n.50 (noting that the phenomenon has nothing to do with romance).

20. Cf. JOSEPH CONRAD, *HEART OF DARKNESS* 24 (New York, St. Martin's Press 1989) (1899) ("The smell of mud, of primeval mud, by Jove! was in my nostrils . . ."); Arrow, *Pomobabble*, *supra* note 2, at 532-34 n.29 (contemplating primordial mud, tears, and feet); *infra* note 39 (quoting Matei Calinescu on the relatedness of decadence-fascination to primitiveness-fascination,

(Same phenomenon, same comments.) Rejection of the Enlightenment? (Tough to market *that* one to non-New Age Space Cadets.) It couldn't be any of those.

Perhaps the juvenile epistemological and linguistic agnosticism?²¹ (Maybe a bit: People who don't know what they are, where they are, and can't communicate seem to take orders pretty well.²²) Rejection of nature? (Getting warmer: a real confidence-builder for New Man social engineers.) "Pragmatism" unconcerned with those tedious *consequences*²³—which might otherwise brake the Vision? (Warmer still):

Winston[s] . . . mind slipped into the labyrinthine world of doublethink. To know and not to know, to be conscious of complete truthfulness while telling carefully constructed lies, to hold simultaneously two opinions which canceled out, knowing them to be contradictory and believing in both of them, to use logic against logic, to repudiate morality while laying claim to it, to believe that democracy was impossible and that the Party was the guardian of democracy, to forget whatever it was necessary to forget, then to draw it back into memory again at the moment when it was needed, and then promptly to forget it again. . . .²⁴

and Stanley Fish perhaps applying Calinescu's observation to the professoriate). *But cf. infra* note 56 (quoting Friedrich Nietzsche on submission).

21. See, e.g., Stephen M. Feldman, *An Arrow to the Heart: The Love and Death of Postmodern Legal Scholarship*, 54 VAND. L. REV. 2351, 2363 (2001) ("[M]odernists have never successfully explained how we manage to bridge the gap between the modernist self . . . and [the] external objective world."). [Remember "grokking deeply," see ROBERT HEINLEIN, *STRANGER IN A STRANGE LAND* 22 (1961), on *that* one in fifth grade? The best I came up with then—which in hindsight may not have been too bad—was "*gusto ergo sum*" (no *gusto*, no *sum*).] Compare Feldman, *supra*, at 2363 ("[P]ostmodernists maintain that . . . [t]ruth and knowledge exist not because of correspondence with objective reality but rather because we exist within communal and cultural traditions that enable us to communicate with each other."), with GEORGE ORWELL, *NINETEEN EIGHTY-FOUR* 281 (1949) ("Winston worked it out. 'If he *thinks* he floats off the floor, and I simultaneously *think* I see him do it, then the thing happens'. . . . All happenings are in the mind. Whatever happens in all minds, truly happens.").

22. Arrow, *Pomobabble*, *supra* note 2, at 526 n.27 (quoting a character in the 1991 movie *Slacker*—a student-generated cinematic spoof of *pomo*).

23. See, e.g., Hilary Putnam, *Afterword to Symposium on the Renaissance of Pragmatism* [?] in *American Legal Thought*, 63 S. CAL. L. REV. 1911, 1914 (1990) (emphasis added):

[P]ragmatism [?] is an attempt to walk a knife edge. It's very easy for the old [?] pragmatism to fall off on one side or the other. Pragmatism stressed fallibilism. [Charles] Peirce said once . . . that if he had to choose one label to apply to himself, he'd choose the label "fallibilist." And the fallibilist side of pragmatism has been stressed here a great deal. *But you fall off the knife edge on one side if you only say that pragmatism is fallibilist.* The paradox [doublethink?] is that pragmatism is also intensely anti-skeptical. YOU ONLY GET THE FLAVOR OF THE MOVEMENT IF YOU TRY TO WRAP YOUR MIND AROUND THE IDEA OF BEING FALLIBILISTIC AND ANTI-SKEPTICAL AT THE SAME TIME.[.]

cf. T.S. ELIOT, *Mr. Mistoffelees*, in T.S. ELIOT: THE COMPLETE POEMS AND PLAYS 1909-1950, at 161 (1952) ("He can creep through the tiniest crack, *He can walk on the narrowest rail.*" (emphasis added)).

24. ORWELL, *supra* note 21, at 36.

So like the Marxists who conveniently forgot their own historical situatedness when deprecating as historically situated the political observations of non-Marxists (the Marxists "saw further," don'tcha know), doublethinking Pomoites got to reject morality while claiming it,²⁵ have their "pragmatism" while being unaccountable to consequences,²⁶ reject dualities while demonizing whatever they didn't like,²⁷ and a whole lot more. "Prove" *whatever you'd like with whatever you've got!* There are *No Rules!*²⁸ What *fun!* It's . . . *Spaceball!*

But *fun?* Out-of-character for the dead-serious Pomo Corps,²⁹ at least in millennial American law schools, where the prospect of World Redemption (ostensibly through Saving the Marginalized) rendered such things small beer.³⁰ *Power?* You bet. And what was

25. See, e.g., Tushnet, *supra* note 8, at 2325-26 (footnote omitted):

"In today's legal academy, the critique of normativity is associated with the left." The preceding sentence, which I have constructed to summarize the starting point of this essay, is both largely true and arguably incoherent. The incoherence occurs because describing a position as "the left" connotes values like egalitarianism, which are arguably normative. . . . The conclusion suggests that the best course for critics of normativity may lie in foregoing any attempt to support their leftist inclinations through rational arguments

26. See Arrow, *Pomobabble*, *supra* note 2, at 476 (defining "antifoundationalist pragmatism"—in Pomoland: "feint: see 'concealment' 'mysticism,' 'natural law,' see also 'doublethink'"); J.M. Balkin, *The Top Ten Reasons to Be a Legal Pragmatist*, 8 CONST. COMMENT. 351, 361 (1991) ("Being a legal pragmatist means never having to say you have a theory."); *id.* ("You can also be a . . . civic republican . . . a feminist . . . a deconstructionist . . . a crit . . . or . . . anything else."); Arrow, *Pomobabble*, *supra* note 2, at 627 (defining "whoopie pragmatism": "whatever you'd like it to be . . . (ever played poker with the whole deck consisting of jokers?)").

27. Cf. *id.* at 505 (defining "dismissive"—in Pomoland):

adj.: see "mean-spirited," see also "cavalier," "contemptuous," "insensitive," "judgmental," and "unselfcritical," where those "signs" pack insufficient "emotional" wallop, "we" cavalierly, contemptuously, dismissively, insensitively, judgmentally, and mean-spiritedly "deploy" "racist," "sexist," "hegemonic," "hierarchical," *blah blah blah*, promiscuously; see generally "adjectives" "frame"; "education," "legal education" "adjectives"; "Heidegger" "adjectives"; "adjectives" "natural law"; "adjectives" "logic"; "adjectives" "reason"; "adjectives" "crimestop"; "repetitive and cumulative incantation" "adjectives" "legal authority"; *all variants obsolete*.

28. See HUNTER S. THOMPSON & RALPH STEADMAN, *THE CURSE OF LONO* 72 (1983); J.M. Balkin, *Understanding Legal Understanding: The Legal Subject and the Problem of Legal Coherence*, 103 YALE L.J. 105 (1993); cf. Peter Gabel & Duncan Kennedy, *Roll Over Beethoven*, 36 STAN. L. REV. 1, 1 (1984[!]) ("Duncan [to Peter]: You are betraying our program by conceptualizing it.").

29. See generally Arrow, *Messianism*, *supra* note 14, at 163-64 (exploring the *mal humor* phenomenon); Arrow, *Pomobabble*, *supra* note 2, at 650-56 n.50 (same).

30. See, e.g., Arrow, *Pomobabble*, *supra* note 2, at 527 n.29 (translating by cross-referencing elsewhere-defined terms an invitation from the reliably lefty Society of American Law Teachers to attend one of its conferences):

[A] central mission of [SALT] has been the effective education ["education"?] of law students to become progressive ["progressive"?], socially conscious[?] lawyers who care [?] and think critically ["critically"?] about the effect of law [apparently, law]. . . . Diversity ["diversifying"?] law school . . . faculties and trans-

that thing about *rhetoric*? How else could "pragmatism" come untethered from *consequences*? How else could this overripe *bouillabaisse* be marketed?

Historically, "He who controls the language rules the world" has been variously attributed to either of the two Uncle Joes (Goebbels and Stalin), with "If you repeat a lie often enough people will believe it" attributed, *inter alios*, to Uncle Adolf.³¹ Though those inspiring Big Lie postulates hadn't *quite* gotten the job done before (like everything else in *pomo*, its rhetoric-reliance was derivative), you know the old Lefty refrain: "*This time we're gonna get it right!*" [It hasn't seemed to work lately for Red Sox fans, either, but that's another article . . .] And anyway, what else *was* there? Empirical results? (Falsified.) Reason? (Too Enlightenment, and inevitably counterproductive.³²) Threats? (No extra-classroom *power*.) Tears?

forming ["transforming"?] the curriculum are fundamental *[oops!]* to that mission.

....

Several movements . . . *such as* [cute?] critical race theory ["theory"?], feminist theory [same], and clinical theory [Wow! a new one! *But cf.* MICHEL FOUCAULT, *THE BIRTH OF THE CLINIC* (A.M. Sheridan Smith trans., 1973).] . . . built upon new ["new"?] visions ["visions"?] of . . . the legal system . . . [T]hese . . . perspectives can help US to construct . . . legal education. . . .

Cf. J.M. Balkin, *AGREEMENTS WITH HELL and Other Objects of Our [?] Faith*, 65 *FORDHAM L. REV.* 1703, 1724 (1997) ("We can be the MASTERS of . . . CONSTITUTIONAL destiny." (emphasis and emphasis to title added)); ZAMYATIN, *supra* note 4, at 212 ("Who is this 'we'?"); THOMAS MANN, *DOCTOR FAUSTUS* 32 (H.T. Lowe-Porter trans., Vintage Books 1992) (1947) ("[I]t was remarkable how early the idea was fixed in his family's head . . . that [he] was to be a scholar. . . . [E]ven his look, his facial expression never left a doubt that [he] . . . was called to 'SOMETHING HIGHER'" (emphasis added)); L'HEUREUX, *supra* note 3, at 133 ("Next to this, the Department of Theory and Discourse was small beer indeed."); *id.* at 44 (noting that Kurtz had already "softened up" the Deans); *id.* at 43-44 ("You got it," [Kurtz] said. He had the votes of all the [N]ew [P]eople; *they'd been hand chosen with this in mind.*" (emphasis added)).

31. See, e.g., John Mallon, *Who Controls the Language?*, *DAILY OKLAHOMAN*, Apr. 20, 2001, at 7-A.

32. See, e.g., *RULES FOR POSTMODERNISTS*, *supra* note 4, No. 127 ("Speak not of reason, only reasons."); *id.* (No. 74: "Treat rationality as just another tradition."); Chantal Mouffe, *Radical Democracy: Modern or Postmodern?*, in *UNIVERSAL ABANDON? THE POLITICS OF POSTMODERNISM*, 31, 38-39 (Andrew Ross ed., 1988) (stating that postmodernism utilizes "different forms" of rationality); *supra* note 8 (quoting Mark Tushnet on the unsustainability of the Leftist project through rational persuasion and discourse); *cf.* ELIZABETH FOX-GENOVESE, *FEMINISM WITHOUT ILLUSIONS* 146 (1991) (emphasis added):

[Poststructuralist-influenced] feminists . . . have expanded the *attack on logocentrism* into an attack on "phallocentrism." Thus the illusion that the human mind can identify and understand any independent reality becomes a specifically male pretention to *intellectual domination*, which must *inevitably* end in the *OBLITERATION OF WOMEN*. IN THIS SPIRIT, they question the . . . concept of rationality.

Indeed.

(Played out.³³) Repetition? (Maybe—for whatever good it could do.³⁴) What else? *Imminentizing the eschaton?*³⁵

33. See Martha Minow, *Surviving Victim Talk*, 40 UCLA L. REV. 1411, 1428 (1993) ("The very benefit of claiming victimhood—securing attention—can be undermined by overuse of the claim."); cf. WURTZEL, *supra* note 16, at 104 (We're sorry, the number you have dialed is no longer in service."). See generally Arrow, *Messianism*, *supra* note 14, at 157-60 (commenting on the "narrative," or "agony tale" phenomenon in legal "scholarship"); Arrow, *Pomobabble*, *supra* note 2, at 533-34 n.29 (quoting Sheryl Crow, Don DeLillo, Fyodor Dostoevsky, George Du-Maurier, T.S. Eliot, Robert Heinlein, John L'Heureux, Vladimir Nabokov, and Thomas Pynchon on tears).

34. Compare Julius Getman, *The Price of a Chair*, 46 J. LEGAL EDUC. 456, 462-63 (1996) (describing a law-school faculty meeting contemplating the creation of a Mussolini Chair at Texas State) (emphasis added):

Heller was one of our acknowledged stars. . . . He was a part of the critical legal studies movement and was frequently invited to attend conferences on law and various social science disciplines. He was cynical about the rule of law. . . . Most of us envied and admired him.

Heller was not eloquent in the way older faculty often were. He spoke hesitatingly, . . . sometimes REPEATING HIMSELF. . . . [B]ut he could be surprisingly effective[.]

with CONRAD, *supra* note 20, at 20-21 (emphasis added):

[T]here was only an indefinable, faint expression on [the manager's] lips, something stealthy—a smile—not a smile. . . . It came at the end of his speeches like a seal applied on the words to make the MEANING of the commonest phrase appear absolutely inscrutable. . . . He had no genius for organizing, for initiative, or for order even. . . . His position had come to him—why? . . . He was *great* by this little thing that it was impossible to tell what could control such a man. He never gave this secret away. PERHAPS THERE WAS NOTHING WITHIN HIM. Such a suspicion made one pause—for *out here there were no external checks*.

. . . He . . . REPEATED SEVERAL TIMES that the situation was "very grave, very grave."

See generally A.M. Sheridan Smith, *Translator's Note* to MICHEL FOUCAULT, *THE BIRTH OF THE CLINIC*, at vii (A.M. Sheridan Smith trans., 1973) ("One of the characteristics of Foucault's language is his repeated use of key words."); *supra* note 4 (quoting Andrew Boyd, Yevgeny Zamyatin, and Stephen Feldman on repetition); Arrow, *Pomobabble*, *supra* note 2, at 646 (defining "repetitive and cumulative incantation"—in Pomoland).

35. Cf. Francis J. Mootz III, *Psychotherapeutic Practice as a Model for Postmodern Legal Theory*, 12 YALE J.L. & HUMAN. 299, 362 (2000) ("Are we yet bold enough to proceed into the postmodern [Z]one without any security blanket . . . ?"); Arrow, *Pomobabble*, *supra* note 2, at 498-99 n.24 (contemplating Gnostics, sundry other mystics, and their subliminal desire for the Apocalypse); *id.* at 688 n.69 (quoting Perry Miller on the End of the World); *id.* at 534 n.29 (quoting T.S. Eliot on bangs and w[h]impers); THOMAS PYNCHON, *GRAVITY'S RAINBOW* 369 (Bantam Books 1974) (1973) (emphasis added):

Though they don't admit it, the Empty Ones now exiled in the Zone, Europeanized in language and thought, split off from the old tribal unity, have found the why of it just as mysterious. But they've seized it, as a sick woman will seize a charm. They calculate no cycles, no returns, they are in love with the [G]LAMOUR of a WHOLE PEOPLE'S suicide—THE POSE, the stoicism, and the bravery.

But cf. Robert M. Cover, *Bringing the Messiah Through the Law: A Case Study*, in RELIGION, MORALITY, AND THE LAW 201, 209 (J. Roland Pennock & John W. Chapman eds., 1988) ("One of LAW'S usual functions is to *hold off* the Messiah." (emphasis modified)); Larry Alexander & Frederick Schauer, *On Extrajudicial Constitutional Interpretation*, 110 HARV. L. REV. 1359, 1387 (1997) (recapturing the lead in the NAMING game: "Some call this *positivism*. Others call it *formalism*. WE CALL IT LAW." (emphasis added)).

It was obviously time to take a lesson from Martin Heidegger³⁶ and Big Brother,³⁷ and to create a language.³⁸ Since American pomo was hatched (where else?) in the elite universities³⁹ (Derrida's Johns Hopkins speech, the Yale comp lit department and all that), there was a ready-made lefty politics available to operate symbiotically with the linguistic, epistemological, and ontological uncertainties of the impressionable.⁴⁰ Taken together, the political and pseudophilosophical⁴¹ (but essentially mystical⁴²) jargon could make

36. See *infra* note 49 (analyzing Heidegger's Third Reich rhetoric); *infra* note 261 (same).

37. See *infra* text accompanying note 48 (quoting George Orwell on the utility of Newspeak).

38. Cf. Balkin, *supra* note 14, at 1976 ("Knowledge is a set of language games, as opposed to a set of true beliefs . . ."); RULES FOR POSTMODERNISTS, *supra* note 4, No. 334 ("Play language games—your identity depends on it." (emphasis added)).

39. Compare MANN, *supra* note 30, at 35-37:

. . . [S]omething still hung on the air from the spiritual constitution of the men of the last decades of the fifteenth century: a morbid excitement, a metaphysical epidemic latent since the last years of the Middle Ages. This was a practical . . . modern town.—Yet no, it was not modern, it was old. . . . [H]ere one could imagine strange things: as for instance a moment for a children's crusade might break out; a St. Vitus's dance; some wandering lunatic with communistic visions, preaching a bonfire of the vanities; miracles of the Cross, fantastic and mystical folk movements. . . .

The stamp of old-world, underground neurosis which I have been describing, the mark and psychological temper of such a town, betrays itself in Kaisersaschern . . . [.]

with, e.g., *The College Pump*, HARV. MAG., May-June 2001, at 92:

At 8:45 a.m. on February 20 a Wiccan priestess led the daily service of morning prayers in Memorial Church. Grove Harris, M.Div. '96, is otherwise administrative assistant of the Pluralism Project at Harvard. . . . Reverend Professor Peter J. Gomes, Pusey minister in the Memorial Church, said that Harris is "the first Wiccan priestess of whom we're aware."

See generally *supra* note 20 (contemplating primordial mud, feet, and *nostalgie pour la boue*); MATEI CALINESCU, FIVE FACES OF MODERNITY 164 (Duke Univ. Press, rev ed. 1987) (1977) ("Renan is probably the first to have been aware . . . that the fascination with decadence and the apparently contradictory fascination with origins and primitivism are actually two sides of one and the same phenomenon."); Larissa MacFarquhar, *The Dean's List*, NEW YORKER, June 11, 2001, at 62, 64 (quoting Stanley Fish):

The essence of it all is contained in the very first aphorism I ever formulated, in 1964 as I watched my colleagues at Berkeley turn from abasing themselves before deans and boards of trustees to abasing themselves before students—*Academics like to eat shit, and in a pinch, they don't care whose shit they eat.*

"Most deeply to my regret." DUMAURIER, *supra* note 6, at 67; cf. *id.*:

For I had fondly hoped it might one day be said that whatever my other shortcomings might be, I at least had never penned a line which a pure-minded young British mother might not read aloud to her little blue-eyed babe as it lies sucking its little bottle in its little bassinet.

Fate has willed it otherwise.

40. Cf. *supra* note 14 (quoting Stephen Feldman on the Sublime link between politics and epistemological Uncertainty).

41. Cf. RULES FOR POSTMODERNISTS, *supra* note 4, No. 115 ("CONFER PHILOSOPHICAL STATUS ON LINGUISTIC GIMMICKS." (emphasis added)).

42. Pomo's subjectivist and anti-realist epistemology traces back *in haec verba* to the Talmud and beyond. Compare, e.g., Balkin, *supra* note 14, at 1976 ("The Cartesian *cogito* becomes transformed: Instead of 'I think therefore I am,' we have 'I think as I am.'"), with WURTZEL,

goofy ideas seem plausible (to some⁴³). And by *reversing* the ordinary meaning of words in the jargon (with *premodern* mysticism, its emotional baggage, and related class-struggle nostalgia becoming "*postmodernism*," words like "rich," "textured," and "nuanced" signifying slavish neo-Marxist linear thinking, "democratic" meaning anything but *democratic*,⁴⁴ and *différance* meaning—well, who cared?⁴⁵), ideas long empirically falsified could (so the theory went) be made to at least *sound* appealing at first blush. The jargon was just obscure enough to provide the possibility of "cranking it up" defensively whenever anyone might suspect that the Emperor might be buck naked; the idea would then be to fool the gullible into thinking that some profound thoughts were there, just beyond the listener's (or reader's) comprehension.⁴⁶ And from there, George Orwell could fill in the details:

The purpose of Newspeak was not only to provide a medium of expression for the world-view and mental habits proper to devotees of Ingsoc,⁴⁷ but to make all other thoughts impossible. It was intended that when Newspeak had been adopted . . . and Oldspeak forgotten, a heretical thought . . . should be literally unthinkable. . . . This was done partly by the invention of new words, but chiefly by eliminating undesirable words and by stripping such words as remained of unorthodox meanings, and so far as possible of all secondary meanings whatever. . . . No word that could be dispensed with was allowed to survive. Newspeak was designed not to extend but to diminish the range of thought. . . .⁴⁸

supra note 16, at iv ("Long before Derrida and deconstruction, the Talmud said . . . 'We do not see things as they are. We see them as we are.' "). See generally MICHAEL DEVITT, *REALISM AND TRUTH*, at vii (2d ed. 1991) ("There is no sign that the 'sociologists of knowledge' are anywhere near distinguishing epistemology from metaphysics.").

43. Cf., e.g., Salman Rushdie, *Reservoir Frogs*, NEW YORKER, Sept. 23, 1996, at 104 ("[O]bscurity is a characteristic of objects of desire."); GERTRUDE STEIN, *EVERYBODY'S AUTOBIOGRAPHY* 75 (1937) ("[T]he Germans could always convince the pacifists to become pro-German. That is because pacifists are *such* intelligent beings that they could follow what ANY ONE is saying." (emphasis added)); ORWELL, *supra* note 21, at 211 ("What most oppressed Winston was the consciousness of his own intellectual inferiority. . . . O'Brien was a being in all ways LARGER THAN HIMSELF. . . . It must be he, *Winston*, who was mad." (emphasis added)).

44. See Arrow, *Messianism*, *supra* note 14, at 150 n.3.

45. It was good enough for Derrida, so it better have been good enough for you.

46. See, e.g., Arthur Austin, *A Primer on Deconstruction's "Rhapsody of Word-Plays,"* 71 N.C. L. REV. 201, 208 (1993) (commenting on "deconstruction"); *State of the Art Bad Taste*, CANBERRA TIMES, May 22, 1999, at 2, available at LEXIS, News Library, Canber File (commenting on "Pomobabble"—by NAME); cf. DONALD N. MCCLOSKEY, *IF YOU'RE SO SMART: THE NARRATIVE OF ECONOMIC EXPERIENCE* 57 (1990), quoted in Austin, *supra*, at 208 n.62:

A book by a French historian famous for his profound obscurity was recently translated into plain English. When thus made clear it turned out that his argument was simple, even a little simple-minded. The historian in his eminence was outraged by the lucidity of the translation. It did not capture, he complained, *ma profundité*.

47. "English socialism," for any who haven't read the book.

48. ORWELL, *supra* note 21, at 303-04.

Calling it "Newspeak," of course, would have let the cat out of the bag, and committed the cardinal postmodern sin of candor.⁴⁹ So the phenomenon was itself given a benign-sounding name: "naming." Having "proven" that language consisted of an infinite regress of signifiers that could carry no determinate meanings⁵⁰ (thus, to take just one example, the United States Constitution meant whatever you wanted it to mean, see?⁵¹), the Pomoites attempted through "naming" (while all the time denying it) to construct a language whose most critical words could somehow clandestinely privilege⁵² their naked political preferences.⁵³ A tough task for non-doublethinkers, but an elegant (if transparent) trick to play on gullible marks.

49. Apart from its obfuscatory instrumental utility, Pomo's affinity for jargon (and purposeful lapses into French or German) traces back to the continental tradition, and perhaps more specifically (but by no means exclusively) to G.W.F. Hegel, Edmund Husserl, Martin Heidegger, and Theodor Adorno. See, e.g., J.M. Balkin, *Deconstructive Practice and Legal Theory*, 96 YALE L.J. 743, 745 (1987) ("Hegel, Husserl, and Heidegger [were not] . . . known for clarity of exposition, and Derrida often does little better than his intellectual predecessors."); *supra* note 5 (quoting Leo Tolstoy on the "clarity" of French "philosophy"); James Miller, *Is Bad Writing Necessary? George Orwell, Theodor Adorno, and the Politics of Language*, LINGUA FRANCA, Dec./Jan. 2000, at 33 (commenting on Adorno's role); RICHARD WOLIN, *THE POLITICS OF BEING* 19 (1990) ("[I]nstead of trying to make his positions plausible through the customary techniques of . . . analysis, Heidegger seeks to convince . . . primarily by . . . various rhetorical strategies, as well as the employment of neologisms whose conceptual self-evidence is . . . assumed."); *id.* (emphasis added):

In [Theodor] Adorno's view, the discourse of Heideggerian *Existenzphilosophie* "sees to it that what it wants is on the whole FELT and ACCEPTED THROUGH ITS MERE DELIVERY, WITHOUT REGARD TO THE CONTENT OF THE WORDS USED." Thus, insofar as "the words of the jargon sound as if they said something higher than what they mean . . . whoever is versed in the jargon does not have to say what he thinks, does not even have to think it properly." [;]

cf. Louis B. Schwartz, *With Gun and Camera Through Darkest CLS-Land*, 36 STAN. L. REV. 413, 414 (1984) (explaining how the Crits attempted to achieve a "high moral tone" through the use of "jargon, shallow psychologizing [and] moralistic preachiness"). See generally Arrow, *Pomobabble*, *supra* note 2, at 477-78 (defining "clarity"—in Pomoland: "social construct: a 'traditional' conceptual tool of arch-conservatism; an obstacle to 'interpretation,' 'decentering,' 'discourse,' 'rhetoric,' 'critique,' and 'doublethink;' see generally 'concealment;' all variants obsolete") (footnote omitted).

50. See, e.g., Arrow, *Pomobabble*, *supra* note 2, at 491-501 n.24 (quoting and commenting on Derrida).

51. See RULES FOR POSTMODERNISTS, *supra* note 4, No. 9 ("Read the text as you desire.").

52. *Cf. id.* No. 132 ("To change what things mean, redescribe them.").

53. Postmodernist Stanley Fish doesn't much like the phrase "naked political preferences," explaining in a semantic ipse dixit that with the exception of trivial preferences such as gustatory ones, "preferences . . . are principles (or at least principled)—principles of the only kind there really are, strong moral intuitions about how the world should go . . ." STANLEY FISH, *THE TROUBLE WITH PRINCIPLES* 9 (1999). What this really means, of course, is that naked political preferences are . . . well, naked political preferences. *But cf.* Gabel & Kennedy, *supra* note 23, at 4 (quoting Duncan: "Why can't I just call it YEARNING? What's wrong with calling it INTERSUBJECTIVE ZAP?" (emphasis added)).

Whether it could actually work (or had ever worked) to render unthinkable whatever attitudes were disfavored by the cynical self-appointed linguistic elite attempting it⁵⁴ was dubious even theoretically. [Have the members of the signified group been elevated merely by changing their linguistic signifier from "bums" to "Homeless People"? (Has the cultural connotation of the former signifier now caught up to the latter?) Would the civil rights revolution have been worth it if all it had accomplished was to change the "colored people" signifier to the "People of Color" one? (For pomo professors, perhaps.)] But with Marxism in shambles from Bratislava (if not Berkeley) to Bucharest and Beijing, the point was that *there wasn't anything else*. And among American public-law legal academics (not widely known for the diversity of their political thought⁵⁵), *something* was needed to shore up the self(?⁵⁶)-esteem⁵⁷

54. Cf. Balkin & Levinson, *supra* note 10, at 1774 (acknowledging that attempts to consciously influence the development of language may be viewed as "efforts by self-appointed elites to gain cultural control over the masses").

55. Cf. ORWELL, *supra* note 21, at 123 ("Always yell with the crowd, that's what I say. It's the only way to be safe."); RULES FOR POSTMODERNISTS, *supra* note 4, No. 141 ("Follow the market."); Arrow, *Messianism*, *supra* note 14, at 165 (contemplating law-school market forces); FARINA, *supra* note 10, at 124-25 ("Stipend. Grants. The Ford Fruit, the Guggenheim Vine."); ORWELL, *supra* note 21, at 136 (contemplating "thoughtcrime"); Arrow, *Pomobabble*, *supra* note 2, at 658 (defining "tenure" as "crimestop"—in Pomoland). See generally WALTER BENJAMIN, *One-Way Street*, in 1 WALTER BENJAMIN, *SELECTED WRITINGS, 1913-1926*, at 444, 458 (Marcus Bullock & Michael W. Jennings eds., 1996) (quoting a sign—but in this instance a written one: "Germans, Drink German Beer!").

56. Since everybody's "socially constructed" in the postmodern *Weltanschauung*, see, e.g., Balkin, *supra* note 14, at 1977 n.25 (citing sources), the "relatively autonomous self" is a fiction, but cf. Randall Kennedy, *My Race Problem—and Ours*, ATLANTIC MONTHLY, May 1997, at 55, 56 (criticizing Michael Sandel's rejection of the notion of the "unencumbered self"), and things exist only when they're talked about communally, see *infra* note 154 (quoting Stephen Feldman), postmodernists aren't big on the concept of the individual. See, e.g., JONATHAN CULLER, *THE PURSUIT OF SIGNS* 32-33 (1981) ("The goal of the human sciences," says Lévi-Strauss, 'is not to constitute man but to dissolve him.' . . . [T]he 'id' is not something given but comes to exist as *that which is addressed by and relates to OTHERS*." (emphasis added)); cf. Pierre Schlag, *Fish v. Zapp: The Case of the Relatively Autonomous Self*, 76 GEO L.J. 37, 48 (1987) ("[T]he self doesn't really know what it's doing. . . . It just sort of groks its way through life.").

To be sure, "there is such a thing as givenness that is not itself the object of intentional acts," HANS-GEORG GADAMER, *TRUTH AND METHOD* 245 (Joel Weinsheimer & Donald Marshall rev. trans., Continuum Publ'g Co. 2d ed. 2000) (1960) (emphasis added), but unless we're all allowed to shoot each other at (*gasp!*) will, there is also a component that isn't. And the pomos themselves furnish an interesting case study for contemplating where one stops and the other begins [but perhaps postmodernists are wholly socially constructed while the rest of us aren't—an interesting hypothesis, to be sure, and one we'll explore further later on, see, e.g., *infra* note 287 (quoting Kenneth Karst)], since despite their self-abasement professed suspicion of the self (and perhaps epistemologically-compelled affinity for groupthink), they seem to be anything but indifferent to self(?)-promotion. See, e.g., RULES FOR POSTMODERNISTS, *supra* note 4, No. 65 ("Learn from Las Vegas."); *id.* No. 82 ("Show your work."); *id.* (No. 241: "Preserve your heritage through

of those whose commitment to the Lost Cause was Forever.⁵⁸ Without a limiting external reality,⁵⁹ wouldn't the power to "prove" *whatever you liked with whatever you had* fit the bill quite nicely?⁶⁰

aggressive marketing."); Feldman, *supra* note 21, at 2365 n.54 (encapsulating the thoughts of one self-described postmodernist law professor on the subject).

A paradox? Or is it just that *esse est percipi* thing? Cf. RULES FOR POSTMODERNISTS, *supra* note 4, No. 35 ("Speak to be spoken—*language composes you*." (emphasis added)); Arrow, *Pomobabble*, *supra* note 2, at 564 (defining "horror"—in Pomoland). But cf. FRIEDRICH NIETZSCHE, BEYOND GOOD AND EVIL 209 (Walter Kauffman trans., Vintage Books 1966) (1886) ("The vain person is delighted by every good *opinion* he hears of himself . . . just as every bad *opinion* pains him: for he SUBMITS to both, he feels *subjected* to them in accordance with that oldest instinct of SUBMISSION. . . . [V]ANITY IS AN ATAVISM." (emphasis added)).

57. Compare, e.g., Michael R. Katz & William G. Wagner, *Chernyshevsky, What Is to Be Done? and the Russian Intelligentsia*, in NIKOLAI CHERNYSHEVSKY, WHAT IS TO BE DONE? 1, 21 (Michael R. Katz trans. & William G. Wagner annot., Cornell Univ. Press 1989) (1863) ("[Chernyshevsky] . . . provided déclassé intellectuals with a social role that gave them . . . self-esteem regardless of the success or failure of their actions."), and Benjamin, *supra* note 55, at 460 ("For the critic, *his colleagues* are the higher authority. Not the public. Still less, posterity." (emphasis added)), with TOM WOLFE, *The Intelligent Coed's Guide to America*, in MAUVE GLOVES & MADMEN, CLUTTER & VINE 107, 119-20 (1976) (emphasis added):

The European intellectual! What a marvelous figure! . . . [F]rom that time to this . . . the American intellectual [?] would perform . . . the Adjectival Catch Up. The European intellectuals [?] have a *real* wasteland? Well, *we* have a psychological wasteland. They have *real* fascism? Well, *we* have *social* fascism (a favorite phrase of the 1930's, amended to "liberal fascism" in the 1960's). They have *real* poverty? Well, *we* have *relative* poverty (Michael Harrington's great Adjectival Catch Up of 1936). They have *real* genocide? Well, *we* have *cultural* genocide (i.e., what universities were guilty of . . . if they didn't have open-admissions policies for minority groups).

. . . They were difficult, these one-and-a-half gainers in logic. But they were worth it. WHAT HAD BECOME IMPORTANT ABOVE ALL WAS TO BE THAT POLISHED FIGURE AMID THE RUBBLE, A VISION OF SWEETNESS AND LIGHT IN THE SMOKING TAR PIT OF HELL.[.]

and RULES FOR POSTMODERNISTS, *supra* note 4, No. 157 ("Market anti-establishment postures."), and *id.* No. 7 ("Pose.").

58. See generally DOSTOEVSKY, *supra* note 16, at 125 ("Soon we'll contrive to be born . . . from an IDEA . . ." (emphasis added)); HUXLEY, *supra* note 4, at 27 ("For Jeremy, direct, unmediated experience was always hard to take in, always more or less disquieting. Life became safe, things assumed meaning, only when they had been translated into words and confined between the covers of a book."); CONRAD, *supra* note 20, at 21 ("What REDEEMS is the *idea* only . . . and [a] . . . belief in the *idea*—something you can set up, and bow down before, and offer a sacrifice to . . ." (emphasis added) (quoting Marlow)); *supra* note 8 (quoting Mark Tushnet on the utility of pep talks for Left-wing law professors).

59. See Feldman, *supra* note 21, at 2363 n.44 ("Postmodernists are, in effect, *indifferent* to objective reality. . . . Postmodernists . . . do not *necessarily* claim that an external world does not exist. Rather, they claim only that to the extent that there is an external world, it is *meaningful* only through our HERMENEUTIC BEING-IN-THE-WORLD." (emphasis in original)). Cf. Arrow, *Pomobabble*, *supra* note 2, at 608 (defining "Pomobabble"); RULES FOR POSTMODERNISTS, *supra* note 4 No. 221 ("In the attempt to demistify, further obscure."). But compare Feldman, *supra*, at 2363 n.44 (describing "hermeneutic being-in-the-world"), with Eddie Alterman, *Kimwoo*, *Where Are You?*, AUTOMOBILE MAG., July 2001, at 90, 91 (providing cartoon contemplating the search for Kim Woo-Choong, international fugitive and founder of Daewoo) ("In 1989, Kim wrote a book entitled *Every Street Is Paved With Gold*. . . In it, he wrote: 'Activity is proof that you are alive.'") [HMMMMM. . . . Maybe not Gadamer's (or Feldman's) "hermeneutic being-in-the-world," but deep.]

II. THE GAMBIT

With all-too-frequent exceptions (at least in the legal literature⁶¹), the insincere, doublespeaking, pseudo-intellectual rubbish⁶² that resulted went distressingly unchallenged through the early '90s.⁶³ I knew, of course, that "[a]ll this in reality was an immensely delicate spiderweb,⁶⁴ stretched to its limit and trembling, and at any moment it would snap and something beyond all imagining would happen."⁶⁵ But by the late '90s, I'd had enough,⁶⁶ and decided to pluck the string myself.

So in late 1997, I published an article in the *Michigan Law Review*, the text of which (as contrasted with its footnotes) has been aptly described by Arthur Austin as the *Devil's Dictionary* of Pomo-

60. In the literature department context—whence came pomo, and where the professoriate is even more politically impotent than the law professoriate, cf. Balkin, *supra* note 14, at 1985-86 (commenting on the impotence of the latter)—the equivalent "aphrodisiac high" now comes from the more modest power to tell Homer and Shakespeare what they meant, see Arthur Austin, *The Postmodern Infiltration of Legal Scholarship*, 98 MICH. L. REV. 1504, 1523 (2000).

61. See, e.g., Austin, *supra* note 46; cf. Gene R. Shreve, *Eighteen Feet of Clay: Thoughts on Phantom Rule 4(m)*, 67 IND. L.J. 85, 92 (1991) ("Postmodernism diminishes opportunities for wide agreement about what is (or would be) good in the law."); Cass R. Sunstein, *Administrative Substance*, 1991 DUKE L.J. 607, 618 n.47 ("To the extent that postmodernism prizes fluidity and transformation, independently of substance, it will often point in the wrong direction."); Anthony Chase, *The Left and Rights: A Conceptual Analysis of the Idea of Socialist Rights*, 60 N.Y.U. L. REV. 304, 325 (1985) ("However useful such critical methodology may be in generating new techniques for 'reading' a wide variety of 'texts,' postmodernism's extreme ambivalence towards the individual subject is at odds with rights discourse.").

62. Cf. DANIEL A. FARBER & SUZANNA SHERRY, *BEYOND ALL REASON: THE RADICAL ASSAULT ON TRUTH IN AMERICAN LAW* 3 (1997) (quoting Salman Rushdie: "[I]t matters, it always matters, to NAME rubbish as rubbish. . . . To do otherwise is to legitimize it." (emphasis added)); DOSTOEVSKY, *supra* note 58, at 479 ("Then suddenly, in the back rows, a lonely but loud voice was heard: 'Lord, what rubbish!'").

63. Cf., e.g., R.J. Lambrose, *Damned If You Do. . .*, LINGUA FRANCA, Feb. 1997, at 16, 16 ("[S]cholarly 'credentials lend instant authority to even the silliest or most obvious points.' " (quoting Franklin Foer, QUOTEMEISTERS, NEW REPUBLIC, Nov. 4, 1996, at 21)); DENNY F. PACE, *HANDBOOK OF VICE CONTROL* 3 (1971) ("Vice is allowed to exist because there is little . . . sentiment toward most forms of vice behavior . . ."); D.A.F., *Gresham's Law of Legal Scholarship*, 3 CONST. COMMENT. 310 (1986) ("In law . . . it is rare for a professor to attack a colleague's work in print. Such attacks, when they occur at all, are likely to be restrained and extremely polite." (footnote omitted)); *id.* at 311 ("Currently . . . a certifiably nutty idea can be repeated in major journals for years on end, before some brave soul ventures to suggest that 'although there is some validity to the insights of Professor Wacko's theory, some serious qualifications should be stressed to a greater extent than has been previously recognized.'").

64. Cf. Balkin, *supra* note 14, at 1967 (describing the contemporary leftist legal academy as one that has "cast itself adrift, . . . and engaged in spinning gossamer webs of republicanism, deconstruction, dialogism, feminism, or what have you").

65. ZAMYATIN, *supra* note 4, at 136.

66. Cf. *The Tom Snyder Show* (syndicated television broadcast, June 21, 1997) ("The more crap you put up with, the more crap you are going to get." (quoting Tom)).

babble.⁶⁷ The article, entitled *Pomobabble: Postmodern Newspeak and Constitutional "Meaning" for the Uninitiated*,⁶⁸ is a 230-page parody and satire of law-school postmodernism, with most of the good stuff in its sixty-nine overwhelmingly (and purposely) bloated footnotes.

Though you've already had a glimpse of its style if you've been reading the footnotes to *this* essay, *Pomobabble* purports to be a four-act play, with the revealingly-defined pomo jargon (the names) as its major "above the line" "characters." The messianic Leftist Vision legal professorate receives more than passing glances⁶⁹ in the footnotes. And co-opting the Pomo Battalion's own technique of answering questions with more questions⁷⁰ (while taking seriously—even though it doesn't—pomo's professed discomfort with "dualities"⁷¹), each page also contains *MEZZATEXT*, which consists of questions *between* the text and footnotes on each page.⁷² *Pomobabble's* abstract reveals just a bit more of its purposefully pungent flavor:

In what must surely be the most rich, textured, nuanced, and transgressive example of subversive postmodern narrative yet published in an American law review, Professor Arrow engages in what he apparently characterizes as a semiotic, cultural, and psychoanalytic study of postmodernism and its "theorizing" of American constitutional law. Perhaps deploying a number of variations on postmodern ana-

67. See Arthur Austin, *The Dark Side of the Second Amendment*, 4 GREEN BAG 2d 229, 230 n.2 (2001).

68. See *supra* note 2.

69. But cf. MANN, *supra* note 30, at 93 ("Adrian . . . did not love personal glances . . .").

70. Cf. DAVID LODGE, *CHANGING PLACES* 12 (1975):

A colleague had once declared that Philip ought to publish his examination papers. The suggestion had been intended as a sneer, but Philip had been rather taken with the idea—seeing in it, for a few dizzy hours, a heaven-sent solution to his professional barrenness. He visualized a critical work of totally revolutionary form, a concise, comprehensive survey of English literature consisting entirely of questions, elegantly printed with acres of white paper between them, questions that would be miracles of condensation, eloquence and thoughtfulness, questions to read and re-read, questions to brood over, as pregnant and enigmatic as *haikus*, as memorable as proverbs; questions that would, so to speak, contain within themselves the ghostly, subtly suggested embryos of their own answers. *Collected Literary Questions*, by Philip Swallow. A book to be compared with Pascal's *Pensées* or Wittgenstein's *Philosophical Investigations*. . . .

See generally PYNCHON, *supra* note 35, at 293 ("If they can get you asking the wrong questions, they don't have to worry about answers." (emphasis added)).

71. See, e.g., Feldman, *supra* note 21, at 2366 & n.61 (criticizing same).

72. In so doing, *Pomobabble* consciously one-ups Derrida's *Living On · Border Lines*, see Jacques Derrida, *Living On · Border Lines*, (James Hulbert trans.), in *DECONSTRUCTION AND CRITICISM* 75 (Harold Bloom & William Golding eds., 1979), and *Pomobabble's* *MEZZATEXT* and multiple typefaces pay parodic homage to his *Glas*, see JACQUES DERRIDA, *GLAS* (John P. Levy, Jr. & Richard Rand trans., Univ. of Neb. Press 1986) (1974). See generally Arrow, *Messianism*, *supra* note 14, at 158 (recognizing the importance of "one-upmanship" in playing the contemporary "legal scholarship" game).

lytical style, Professor Arrow's narrative also appears to draw from the law-and-literature tradition, perhaps finding insights into the postmodern psyche, *inter alia*, in Thomas Pynchon's Blicero, Fyodor Dostoevsky's Pyotr, Joseph Conrad's Kurtz, and the real-life (?) adventures of medieval mystics Heinrich Suso, Nathan of Gaza, Sigmund Freud, and William James. Coming to grips with the insights of contemporary French [depressive] "philosophy," he may definitively establish the positions of Michel Foucault and Jacques Derrida in the cannon. He also makes a number of interesting observations about feet.

Perhaps the article is a satire; perhaps not. It should go without saying that given the indeterminacy of language and the fluidity of meanings, any attempt to resolve that issue could only be quixotic.⁷³

No doubt because it attacked pomo's jargon—its primary tool (such as it is)—so directly, turned the tables⁷⁴ and explored the *postmodernists'* psychological (and other) motivations, was as edgy as the Crits at their best (worst?),⁷⁵ labeled rubbish as rubbish, and was manifestly "fighting for keeps," *Pomobabble* generated what may yet become a running series of rear-guard, pomo-defending attacks in the literature. I'd apparently hit a nerve.

III. THE KROTOSZYNSKI CRITIQUE

First up to the plate was Professor Ronald Krotoszynski, who took his swings in the *Texas Law Review*.⁷⁶ While saying some nice

73. Abstract, *Pomobabble: Postmodern Newspeak and Constitutional "Meaning" for the Uninitiated*, at http://www.law.umich.edu/journalsandorgs/mlr/archive96_3.html (last visited November 13, 2001) (brackets in original) (ellipsis between paragraphs omitted).

74. See Arrow, *Messianism*, *supra* note 14, at 160-61 (noting the intergenerational appeal of motivation-questioning among twentieth-century left legal academics—including the postmodernists).

75. Imagine an article that visualizes Duncan Kennedy morphing into Joseph Conrad's "harlequin" (or is it Jacques Derrida?), while providing commentary by Richard Fariña, Mary Hopkin, and Gertrude Stein on the process; that contemplates the harmonic possibilities of a *Bell Bottom Blues* duet between Kennedy and Eric Clapton; that analogizes Cornel West's self-positioning techniques to those of the leaf butterfly; that suggests that Cass Sunstein's brand of feminism confines women who reject it to a gilded canary cage (the custody of which, of course, is Sunstein's); that visualizes Morton Horwitz departing for Mars on a postmodern Rocket powered by his constitutional "theory" [*Pomobabble* borrows Thomas Pynchon's Rocket metaphor throughout]; that takes no issue with Alfredo Mirandé's characterization of Richard Delgado's fictional character Rodrigo as an unauthentic nerd; that unfavorably compares the intelligence level of postmodernists with those of chimpanzees, cetaceans, and basset hounds; that proffers an eleven-step logical proof (in symbolic notation) for the nonexistence of Richard Rorty; that does it all in the context of a search for Joseph Conrad's (or is it Francis Ford Coppola's?) Kurtz (or is it Svengali?), and whose last word of text (as contrasted with its footnotes and artwork) is the eminently-interpretable "Nuts." See generally CATHARINE MACKINNON, *ONLY WORDS* 3 (1993) ("Imagine . . .").

76. See Ronald J. Krotoszynski, Jr., *Commentary—Legal Scholarship at the Crossroads: On Farce, Tragedy, and Redemption*, 77 TEX. L. REV. 321 (1998).

things about *Pomobabble* in passing,⁷⁷ Krotoszynski was not unqualified in his praise. (I drew that conclusion after reading assessments that included "a war crime" in the "ongoing *Kulturkampf*,"⁷⁸ and sentences such as "[I]magine a law review article by Hunter S. Thompson after a really bad trip."⁷⁹)

Ahh, *refreshment*! A pomo defender (Krotoszynski's both too sophisticated and too adaptable to be a full-blown Initiate) who tells us what he thinks in plain English! Writing a reply was surely going to be a pleasure.

And it was. In coming to grips with my humble but ponderous Leviathan, Professor Krotoszynski eagerly consumed a healthy quantity of the analytical bait I'd so carefully embedded therein. My late-1999 reply, entitled "*Rich*," "*Textured*," and "*Nuanced*": *Constitutional "Scholarship" and Constitutional Messianism at the Millennium*,⁸⁰ didn't throw as much as a hard slider.

I began *Messianism* by embracing Krotoszynski's Hunter Thompson characterization, noting (though in springing the first trap on himself, Krotoszynski may have missed it) that *Pomobabble* sprinkles references to Dr. Thompson rather liberally throughout.⁸¹ Besides, *Pomobabble* is a *parody*,⁸² and in pomo everything's *supposed* to be relevant to everything else, with no "text" getting privileged status.⁸³ So why not the Gonzo King, who seems to have cap-

77. See, e.g., *id.* at 323 n.12 (characterizing the *MEZZATEX* as "amusing"); *id.* at 324 (acknowledging that "some legal scholarship has devolved so far into deconstructionist or postmodernist jargon as to no longer be coherent"); *id.* ("Moreover, legal academics from a variety of ideological backgrounds are falling prey to the siren song of 'postmodern newspeak.'"); *id.* at 324 n.14 ("Professor Arrow's point is, at least arguably, on the mark."); *id.* at 325 (characterizing *Pomobabble* as "very clever" and a "magnum opus"); *id.* at 328 ("Make no mistake, *Pomobabble* represents a major undertaking. . . . It roams across a vast expanse of knowledge, from main-line legal scholarship, to pop culture, to relatively complex theories of language and epistemology. There is some method to his madness . . ."); *id.* at 326-27 ("Given that the emperor has no clothes, Arrow, like the young boy in the children's tale, should be lauded for stating openly what we all secretly know to be true."); *id.* at 328 ("Professor Arrow's work is a powerful, but sad, statement about the contemporary legal academy and the value of its scholarship.")

78. *Id.* at 322.

79. *Id.* at 323-24.

80. See *supra* note 14.

81. See Arrow, *Pomobabble*, *supra* note 2, at 468 n.10, 488 n.23, 548 n.30, 561 n.33, 574 n.39, 589 n.39, 590 n.39, and 639 n.46. You'll find Dr. Thompson invoked in the instant work as well. See *supra* note 28.

82. See Arrow, *Messianism*, *supra* note 14, at 153, 156.

83. See Feldman, *supra* note 21, at 2369 ("[P]ostmodernism is characterized by the overabundance of meanings, coupled with . . . the scarcity of adjudicating authorities." (quoting Zygmunt Bauman)); RULES FOR POSTMODERNISTS, *supra* note 4, No. 1 ("Talk about anything in the context of anything else."); cf. Arrow, *Pomobabble*, *supra* note 2, at 468 n.10 (noting that in the *Breakfast Theory* pomo spoof, the motto of *Post Modern Toasties* is "Like everything you've had before, all mixed up"). But cf. Balkin, *supra* note 14, at 1967-72 (proffering an internal division

tured pomo's analytical[?] style quite nicely? The "who owns the Hunter Thompson metaphor?" thrust parried, I turned to Krotoszynski's three specific critiques.

To the first—that I don't take the "narratives," or "agony tales" seriously as legal scholarship—I pled guilty. For the benefit of those wise souls who have reserved their precious reading time for more interesting material, I proffered an unvarnished (and empirically verifiable) description of the essence (*gasp!*) of the narrative "scholarship" movement that was *très chic* in American law reviews a decade or so ago:

First, pick a result (any result) from among those endorsed by the political Left. Then, write a sophomoric, leaden, and preachy story (preferably a one-dimensional one, with one-dimensional characters) getting you to the desired [and oh-so-predictable] outcome in fifteen to twenty-five pages. (You can even tell the story as if it were true; if it's later revealed to be false, you can rely on the "subjectivity of truth" presupposition to argue that truth doesn't matter.)⁸⁴

But in addition to my confession, I also proffered an avoidance, noting that few others in the academy or on the bench seemed to take the "agony tale" jeremiads seriously as legal scholarship either.⁸⁵ Even so, criticism of the narrative movement (which had already long peaked by the time I wrote *Pomobabble* in 1996 and 1997) occupied only a minuscule portion of *Pomobabble*'s attention, as that article had bigger fish to fry.

Second, Krotoszynski argued that insofar as *Pomobabble* questioned the postmodernists' motivations, it's ad hominem and therefore worthy of condemnation.⁸⁶ But in taking *that* swing, Krotoszynski perhaps revealed his own unawareness

within pomo, and cautioning that *legal* pomo shouldn't emulate *cultural* pomo's fragmentation for its own sake, since such pluralism isn't necessarily "progressive," and might actually empower bad political movements like the one led by that evil Ronald Reagan); Douglas Litowitz, *In Defense of Postmodernism*, 4 GREEN BAG 2d 39 (2000) (essentially replicating Balkin's taxonomy).

84. Arrow, *Messianism*, *supra* note 14 at 157-58 (footnote omitted); see also *id.* at 159 (quoting Richard Delgado & Helen Leskovac, *The Politics of Workplace Reforms: Recent Works on Parental Leave and a Father-Daughter Dialogue*, 40 RUTGERS L. REV. 1031, 1040 (1988)):

REBECCA: Dad, I am so happy. I just learned that I am pregnant . . .

....

ROBERT: . . . [A]re you going to be able to manage? . . .

REBECCA: I'll be fine. . . I'll only miss three months of work [at the bank] . . .

....

ROBERT: . . . It seems to me that the bank may say your job may be guaranteed when you come back, . . . but may not do it in practice.

I also confess to having wondered in print whether any sentient being could *not* know what was coming in the following eighteen pages. See Arrow, *Messianism*, *supra* note 14, at 159.

85. See *id.* at 159-60 & nn.52-57.

86. See Krotoszynski, *supra* note 76, at 322.

that the Legal Realists made careers out of second-guessing the motives of judges (which invariably turned out to be the oppression of the marginalized), that the CLSers were addicted to "shallow psychologizing," and that postmodern hermeneutics deems it *mandatory* to inquire into . . . motivations to gain "insights" into the "unsaid side of the discourse."⁸⁷

Bait taken. Were that not enough, even though I hadn't psychoanalyzed any individual law professor (I did, however, with respect to Heidegger, Foucault, and Derrida⁸⁸), Krotoszynski psychoanalyzed *me*.⁸⁹ Too good, but a short step for tall steppers, doublethinkers, and hubristic others who may think they're entitled to dish it out without having to take it. Be that as it may, Krotoszynski couldn't have made my point any better, so eschewing the proffered double-think, I made (and make) no apologies for delivering a generous serving of motivation-questioning in return—with relish.

Krotoszynski's third critique was that *Pomobabble*'s just too long; you'll get just as much satiric value from reading just a part of it, he suggested,⁹⁰ and the pages it consumed in the *Michigan Law Review* might otherwise have been devoted to really important stuff (or at least stuff from young professors on the make).⁹¹

Of course, anyone who's waded through hundreds of pages of Derrida's mystical gibberish⁹² for the sake of gleaning the Sublimely related⁹³ "postmodern insights" that words can have more than one meaning⁹⁴ and that Marxism is a Good Thing⁹⁵ (and I hope for Krotoszynski's sake that he hasn't), might well lack standing to object to the length of any reply. Besides, *Pomobabble* is a parody, with its length also reflecting a lesson I learned well from the Crits:

87. Arrow, *Messianism*, *supra* note 14, at 160-61 (emphasis added) (footnotes omitted).

88. See, e.g., Arrow, *Pomobabble*, *supra* note 2, at 493 n.24 (Heidegger); *id.* at 491-502 n.24 (Derrida); 583-92 n.39 (Derrida and Foucault, with digressions on Heaven's Gate Messiah Marshall Applewhite, Munchausen by Proxy Syndrome, Mutual Dependency Syndrome, the Pieta, power-paradigm obsession, sadomasochism, Don Delillo's thoughts on the Hitler Studies Department at the College on the Hill, Thomas Pynchon's observations about Rockets, John L'Heureux's comments on deconstruction, Virgil's assessment of Mezentius, and Joseph Conrad's most revealing one-paragraph portrait of Kurtz).

89. See Krotoszynski, *supra* note 76, at 328-30; cf. Arrow, *Messianism*, *supra* note 14, at 162 n.69 (commenting on the phenomenon).

90. See Krotoszynski, *supra* note 76, at 324-25.

91. See *id.* at 325-26.

92. See, e.g., JACQUES DERRIDA, *OF GRAMMATOLOGY* (Gayatri Chakravorty Spivak trans., Johns Hopkins Univ. Press 1976) (1967).

93. Cf. Feldman, *supra* note 14, at 52 (discussing the relatedness of Gadamer's "philosophical [?] hermeneutics" to deconstruction).

94. An equivalent linguistic "insight" could, of course, be gleaned from a two-second meditation on the sixth word of the title of this Essay.

95. See, e.g., DERRIDA, *supra* note 8.

Fighting, as they saw it, fire with fire, the Crits responded to long articles in elite law journals with longer articles in elite law journals. . . . [F]rom the C.L.S. point of view, . . . they were matching a local discourse of power and constraint . . . with a discourse of resistance. It is a modest form of political action simply to try to reduce the authority of those who control the local situation.⁹⁶

[A nice reversal, with the Crits now in control?]

Of course, *Pomobabble* wasn't long just for the sake of length; as I explained in my reply to Krotoszynski:

Pomobabble's footnotes consist of a tightly-woven series of mini-essays (and not-so-mini-essays) [often purposefully in stream-of-consciousness, string-quotation form] on topics from the article's structure and project . . . to the postmodernists' attempted use of music, resistance to clarity, hypocritical attacks on dualities, politicized history and mystic influences, and from education to epistemology, "critical" feminism and empiricism. And *Pomobabble* is indeed a type of novel, synthesizing . . . the timeless observations of Virgil, Dostoevsky, Conrad, and Mann (inter alios) about the human condition, and culminating with Kurtz's Moment of . . . Truth in footnote 67 (or is it 68? or 69?).⁹⁷

Doing all that took space, and I argued that the project's ambition was justified in light of the threat to American democracy⁹⁸ posed by the "(con)stitutional law" postmodernists' ultimate project—dismantling the authority of constitutional text and tradition, and replacing them with emotion-driven (and potentially catastrophe-inducing) totalizing Leftist Visions.⁹⁹

IV. FELDMAN AT THE BAT

Perhaps fearing that Professor Krotoszynski may have whiffed while providing me an opportunity to further my critique (which included original artwork depicting a naked Lenin, on Dali's conquistador's horse, leading refugees from Plato's cave toward

96. M.D.A. FREEMAN, LLOYD'S INTRODUCTION TO JURISPRUDENCE 952 (6th ed. 1994).

97. Arrow, *Messianism*, *supra* note 14, at 164 (footnotes omitted).

98. In defiance of Edward Rubin, who'd prefer a public discourse in which "democracy" did not exist. See Edward L. Rubin, *Getting Past Democracy*, 149 U. PA. L. REV. 711 (2001). But cf. Dennis W. Arrow, *Representative Government and Popular Distrust: The Obstruction/Facilitation Conundrum Regarding State Constitutional Amendment by Initiative Petition*, 17 OKLA. CITY U. L. REV. 3 (1992) (defending both the word and the idea).

99. With respect to the non-con-law postmodernists' dream of having Leftist judges "construe" statutes any way they'd like, see, e.g., WILLIAM N. ESKRIDGE, JR., DYNAMIC STATUTORY INTERPRETATION (1994), I decided to leave the response to others. Cf., e.g., John C. Nagle, *Newt Gingrich, Dynamic Statutory Interpreter*, 143 U. PA. L. REV. 2209 (1995) (responding—shortly after the November 1994 Republican Resurrection—with an alternative Vision that could only have sent the Eskridgies into paroxysms of doublethink).

"equality"¹⁰⁰), up stepped Professor Stephen Feldman to save the day. Feldman's work, which immediately precedes this Essay, is entitled *An Arrow to the Heart: The Love and Death of Postmodern Legal Scholarship*.¹⁰¹ Feldman at least purports to offer a more systematic attack on the efforts of Your Humble Narrator.

As the reader well knows, postmodernists aren't big on structure. In his paradigmatically postmodern *Foreword* to the *Harvard Law Review's* 1993 Supreme Court issue, Mort Horwitz went so far as to attack the Supreme Court's practice of constructing its opinions in Parts and Subparts as "methodological obsessions," and its attempts to classify and categorize as "medieval" "technicality."¹⁰² [How useful that postmodern resistance to clarity¹⁰³ (not to mention downright dissembling¹⁰⁴) can be when you're routing for the Big Court to put one over on the crowd!]

But consider—with Feldman, a professed postmodernist¹⁰⁵ who's written (seemingly) dozens of articles on postmodernism, now drawn squarely into the box, some unusually pregnant possibilities are presented. He's attempted (or at least pretended to attempt) to tell us precisely—and in the best modernist tradition, *in clear text*¹⁰⁶—what law-school postmodernism is, defend it, and *specifically enumerate* the reasons why I'm wrong.

What's about to transpire in the following thirty-six pages will illustrate (1) how Feldman has now laid it all on the line; (2) why postmodernists more crafty than Feldman have found the

100. See Arrow, *Messianism*, *supra* note 14, at 172 (reproducing—in full-color glory—*Saint Vlad(imir) and the Postmodern Priesthood of "Equality"* (© Dennis W. Arrow & John Rainey 1999)).

101. See *supra* note 21.

102. See Morton J. Horwitz, *The Supreme Court, 1992 Term—Foreword: The Constitution of Change: Legal Fundamentalism Without Fundamentalism*, 107 HARV. L. REV. 30, 98-99 (1993). Horwitz's extra-terrestrial prescriptions for constitutional "theory" receive special attention in *Pomobabble*. See Arrow, *Pomobabble*, *supra* note 2, at 613-27 n.45.

103. See *supra* note 6 (commenting on obscurity), *supra* note 43 (same); *supra* note 12 (quoting Andrew Boyd on the utility of bullshit); cf. Mas'd Zavarzadeh, *Book Review*, 40 J. AESTHETICS & ART CRITICISM 329, 333 (1982) (reviewing CULLER, *supra* note 56) (arguing that "unproblematic prose and . . . clarity of . . . presentation . . . are the conceptual tools of . . . conservatism").

104. See, e.g., Arrow, *Messianism*, *supra* note 14, at 149-50 n.1 (commenting on the "jurisprudential" con law prescription of the crypto-postmodernist Cass Sunstein); cf. Feldman, *supra* note 13, at 158-64 (documenting the postmodern nature of Sunstein's "jurisprudence"); Feldman, *supra* note 21, at 2371 (same). But cf. Feldman, *supra* note 21, at 2370 n.78 (quoting Sunstein suggesting—if he's not dissembling, which he may well be—that he's unaware of his own postmodernism).

105. See *id.* at 2352.

106. See *id.* at 2365 n.54 ("I . . . believe[] that postmodernism can be explained . . . clearly."). Ultimately, we'll discover that Feldman is incapable of defending whatever it is he's defending without pomobabbling at critical junctures, but we'll get to that observation in due time.

technique of obfuscation (to a much greater extent than Feldman, despite his protestations, obfuscates) essential; and (3) why I'll be eternally grateful (as should all non-postmodern law professors—and America¹⁰⁷) to Feldman for proffering his attack. So let's break down Feldman's objections into their components—*part by part, and subpart by subpart*—and see exactly where we come out. But first, of course, the rules of the game.¹⁰⁸

107. See, e.g., WALT WHITMAN, *Leaves of Grass*, in *LEAVES OF GRASS AND SELECTED PROSE* 18 (Scully Bradley ed., Holt, Rinehart & Winston 1949) (1881) ("DEMOCRACY! [N]ear at hand to you a throat is joyfully singing." (emphasis added)); *id.* at 21 ("For your life adhere to me. . . . On my way a moment I pause, [h]ere for you! and here for America!"); VAN WYCK BROOKS, *THE TIMES OF MELVILLE AND WHITMAN* 185 (1947) (emphasis added):

Seeing man, as [Whitman] did, in nature . . . he detested [aesthetic poets'] indoor aroma, their suggestion of the parlour, of "dandies and ennuyees". . . . With their small caliber . . . they were . . . he felt . . . six times diluted imitators of the . . . French, concerned with . . . fashion . . . mainly, verbal jewelry, aborted conceits, thin sentiment. . . . Most of their poems were but . . . lumps of sugar and the chief part of their dish was the glucose flavors. Not one . . . confronted . . . the voiceless but erect and active spirit of the land, its pervading will and . . . aspiration. . . .

For the country signified to Whitman the new age he was fighting for, the incarnation and the pledge of DEMOCRACY and SCIENCE.[;]

cf. id. at 180 ("[Both] Whitman . . . and . . . Dostoevsky . . . were . . . examples of the idea that nations had missions, roles of their own to perform for the good of mankind. . . . Both sprang from deep roots in the histories of the[ir] nations . . ."); WHITMAN, *supra*, at 18 ("I will not make poems with reference to *parts*. . . . But I will make poems with reference to *ensemble*" (emphasis added)); *id.* at 44 ("I speak the pass-word primeval, I give the *sign* of DEMOCRACY." (emphasis added)); *id.* at 1 ("One's SELF I sing, a SINGLE SEPARATE PERSON, Yet utter the word DEMOCRATIC" (emphasis added)); BROOKS, *supra*, at 132-33 (emphasis added):

For [Whitman] the tumult even of the political scenes was good to behold and reassuring—How much better than the despairing apathy of the people of European states,—the "well ordered" governments of Germany and . . . Russia. . . .

. . . In politics . . . the democratic formula was the only safe and preserved one for the future. It was the only effective method for . . . training people to rule and manage themselves of their *own* will,—far better better than merely finding good RULERS for them[;]

WHITMAN, *supra*, at 6 ("The prophet . . . [s]hall mediate to the MODERN, to DEMOCRACY, *interpret yet to them*" (emphasis added)); *id.* at 57 ("I am the clock myself."); LAWRENCE H. TRIBE & MICHAEL C. DORF, *ON READING THE CONSTITUTION* 30 (1991) ("LISTEN TO WALT WHITMAN." (emphasis added)). See generally STEIN, *supra* note 43, at 21 ("[P]erhaps Europe is finished.").

108. See generally Balkin, *supra* note 14, at 1972 ("The analogy to 'games' is important because it is also characteristic of postmodern philosophy to view knowledge as an activity infused with social interaction and power rather than merely a set of articulable propositions or truths.").

A. Prolegomenon to Any Future Screwballs (or, A Neo-Neo-Kantian Critique of ANY Reason Not Supportive of Neo-Marxist Envy and Class Struggle)

Because Feldman has both criticized my¹⁰⁹ earlier work for not “confront[ing] postmodernism on its own terms”¹¹⁰ and [“paradoxically”?] recognized that the “style” of my critique is postmodern,¹¹¹ I get to deploy the techniques of postmodernism in fashioning my reply (unless, of course, the reciprocity would be excessively “formalistic” and insufficiently flex-o, bend-o, and “situated”¹¹²). So, given my “latent affinity” (in Feldman’s assessment) for the postmodern flame(s),¹¹³ here are the rules under which we’ll play from here on out:¹¹⁴

1. I GET TO LIE.

[It won’t REALLY be lying, you see. Whatever I say can’t be falsified either logically or empirically, because logic’s not REALLY a “neutral principle” (but rather one that’s political, hegemonic, and phallogentric¹¹⁵), and because both Feldman and I (on his hypothesis) are “indifferent to” objective reality (which in any event isn’t meaningful as anything other than a social construct,¹¹⁶ and maybe not even then¹¹⁷).]

109. Or at least Ronald Dworkin’s. See Feldman, *supra* note 21, at 2367. But since Feldman seems quite comfortable in equating others’ critiques of pomo with my own (even in an article ostensibly focused on my work), see *id.* at 2353, 2367, I’ll take the sweet with the bitter.

110. *Id.* at 2367.

111. *Id.*

112. See generally FISH, *supra* note 53, at 41 (“[T]he logic of what’s sauce for the goose is sauce for the gander requires that you redescribe your enemy as someone just like you. Indeed, in this vision, there are no enemies (except religious zealots) . . .” (emphasis added)).

113. Feldman, *supra* note 21, at 2368.

114. Cf. Richard Delgado, *Rodrigo’s Book of Manners*, 86 GEO L.J. 1051, 1058 (1998) (noting that postmodernists get to make up the rules under which they can be criticized); Feldman, *supra* note 21, at 2366 (same).

115. See *supra* note 32 (quoting Chantal Mouffe and Elizabeth Fox-Genovese).

116. See *supra* note 59 (quoting Feldman).

117. See *supra* note 23 (quoting Hilary Putnam on the “new” pragmatism’s indifference to consequences); MORTON J. HORWITZ, *THE TRANSFORMATION OF AMERICAN LAW 1870-1960*, at 209-10 (1992) (criticizing “constructive mode” Legal Realism for “subordinat[ing] political and moral PASSION to social science expertise” (emphasis added)); FISH, *supra* note 53, at 8-9 (defending not empirical consequences—assuming perhaps counterfactually that there is a “real world”—as the appropriate guide to behavior, but subjective “intuitions” and the “desires that already possess you”).

‘And what about Hitler’s boys,’ Mr. Propter asked. ‘What about Mussolini’s boys? What about Stalin’s boys? Do you suppose they’re not just . . . as firmly convinced that [theirs is] . . . the cause of justice, truth, freedom, right and honour?’ He looked at Pete inquiringly. . . .” HUXLEY,

2. I GET TO MAKE ARGUMENTS I DON'T BELIEVE IN, PURELY FOR THEIR POLITICAL EFFECT.

[Apparently everybody agrees with this one, from Feldman to Fish.¹¹⁸]

3. I GET TO CONTRADICT MYSELF AT WILL.

[I can explain away any asserted internal contradiction on too many bases to enumerate, but that include at a minimum: (1) My argument (whatever it is) is really "principled" after all, since the only principles that count are political ones, and purportedly "neutral principles" like consistency are just reactionary "formalism";¹¹⁹ (2) Words don't have stable "signifieds," so how can anyone "prove" that whatever I said IS a contradiction?;¹²⁰ (3) Whatever I said isn't a "contradiction," it's a "paradox";¹²¹ (4) The attacker hasn't "confronted me on my own terms";¹²² (5) I've been "misinterpreted"; and much, much more. (As the pa-

supra note 4, at 129. "Shut up he explained." Mark Tushnet, "Shut Up He Explained," 95 NW. U. L. REV. 907, 907 (2001) (quoting Ring Lardner).

118. See, e.g., FISH, *supra* note 53, at 23-24 ("I was . . . the beneficiary of . . . one [question] that was terrific. 'Although you bill yourself as being 'against principles,' doesn't your own argument suggest that you would have recourse to the vocabulary of principle if it suited your own ends? Right.' "); *id.* at 6-7 (conceding cheerfully that he does precisely that with the "principle" of "nondiscrimination"—whatever it may mean); RULES FOR POSTMODERNISTS, *supra* note 4, No. 292 ("Play with the pieces."); Feldman, *supra* note 13, at 181 (leaving us with the following quotation from Jean Baudrillard as the tag line of that article: "One plays . . . with things that one doesn't believe in anymore.").

119. See, e.g., FISH, *supra* note 53, at 8, 14.

120. See, e.g., Arrow, *Pomobabble*, *supra* note 2, at 492-94 n.24 (commenting on Derrida and "signifiers").

121. See, e.g., Feldman, *supra* note 21, at 2364-65 & n.52 (commenting on "the postmodern concern for paradoxes"); Gabel & Kennedy, *supra* note 27, at 9 ("Duncan: [W]hat we need to do is look for . . . ways of doing things in which the goal is not to convince people by lucidity. . . . But rather to OPERATE IN THE INTERSPACE OF ARTIFACTS, GESTURES, SPEECHES AND RHETORIC, HISTRIONICS, DRAMA, ALL VERY PARADOXICAL, SOAP OPERA, POP CULTURE, ALL THAT KIND OF STUFF." (emphasis added)); *cf.* CONRAD, *supra* note 20, at 50 ("There he was before me, in motley, as though he had absconded from a troupe of mimes, enthusiastic, fabulous."); DON DELILLO, WHITE NOISE 310 (Penguin Books 1986) (1985) ("I continued to advance in consciousness. . . . Water struck the roof in elongated orbs A richness, a density. I believed everything.").

122. See, e.g., Feldman, *supra* note 21, at 2367. Were Feldman to confront me on my terms, however, he'd be forced to respond to the related propositions that "[a] contradiction is an opposition which of its own nature excludes a middle," ARISTOTLE, *Posterior Analytics*, in THE BASIC WORKS OF ARISTOTLE 108, 112 (Richard McKeon ed., 1941), and that "any conjunction of the form ' $p \sim p$ ' logically implies ANY SENTENCE WHATSOEVER; therefore acceptance of one sentence and its negation would commit us to accepting EVERY SENTENCE AS TRUE." W.V. QUINE, PHILOSOPHY OF LOGIC 81 (2d ed. 1986) (emphasis added); *cf. id.* ("[T]he notation [\sim , 'not'] ceased to be recognizable as negation when . . . some conjunctions of the form ' $p \sim p$ ' [were regarded] as true, and stopped [before] regarding such sentences as implying all others. Here, evidently, is the deviant logician's predicament: when he tries to deny the doctrine he only changes the subject.").

leo-postmodernist Saul Alinsky once counseled, "Make the enemy live up to [his] own book of rules."¹²³)

4. BUT I GET TO ATTACK ANY OF MY CHALLENGERS FOR WHAT I LOOSELY (SINCE LOGIC—AT BEST—IS "FORMALISM") CHARACTERIZE AS *THEIR* INCONSISTENCIES.¹²⁴

[As Stanley Fish notes, "what's sauce for the goose is sauce for the gander requires that you redescribe your enemy as someone like you,"¹²⁵ and for present (and perhaps many other) purposes, Feldman is NOT just like me.¹²⁶ Besides (Alinsky one more time), "[r]adicals must be . . . sensitive enough to avoid being trapped by their own tactics."¹²⁷

5. IF I'M ABOUT TO GET THWACKED EVEN UNDER THE ABOVE "RULES" [AN IMPOSSIBLE HYPOTHETICAL, TO BE SURE], I GET TO MODIFY THE MEANING OF MY (OR FOR THAT MATTER, MY OPPONENT'S) WORDS SO AS TO CHANGE THE SUBJECT¹²⁸ AND EVADE THE PUTOUT.

[The postmodern "philosopher" Richard Rorty is the acknowledged master of this one, as a thoughtful glance at his "Contingency" book¹²⁹ (or much of his other post-conversion writing) will demonstrate.¹³⁰

6. I GET TO "PROVE" WHATEVER I'D LIKE WITHOUT AUTHORITY—AS LONG AS I DO SO IN THE NAME OF "PRAGMATISM."

[Too much authority (oops! I forgot . . .) supporting this one to catalogue, but Rorty again seems to get the job done quite nicely.¹³¹

123. See SAUL D. ALINSKY, *RULES FOR RADICALS* 128 (Vintage Books 1972) (1971).

124. See Feldman, *supra* note 21, at 2357 ("The most obvious problem with the various criticisms of postmodernism is the wild inconsistency.").

125. See *supra* note 112 (quoting Fish).

126. Or is he? See *infra* notes 210-25 and accompanying text.

127. ALINSKY, *supra* note 123, at 6.

128. Cf. *supra* note 122 (quoting Aristotle and Willard VanOrman Quine on the necessity of refraining from so doing pursuant to non-deviant logic).

129. See RICHARD RORTY, *CONTINGENCY, IRONY, AND SOLIDARITY* (1989).

130. See Arrow, *Pomobabble*, *supra* note 2, at 629-37 n.46 (subjecting Rorty's writings to some non-doublethink analysis, exposing his technique, and vanishing him—in symbolic notation). But cf. Richard McKeon, *Introduction* to *THE BASIC WRITINGS OF ARISTOTLE*, at xi, xvi (Richard McKeon ed., 1941) ("The syllogism, as conceived by Aristotle, required an emphasis on terms . . . he called univocal, that is, words [that] retain the same meaning every time they are used.").

131. See Richard Rorty, *What Can You Expect from Anti-foundationalist Philosophers?: A Reply to Lynn Baker*, 78 VA. L. REV. 719, 720 (1992) ("If the audience keeps BRAYING [not singing?] 'What's your authority?', 'What's your source of legitimation?', and so on, then she will have something to say. . . . Pragmatism is having a PHILOSOPHER on hand to murmur in your ear 'You have the right not to answer that question.'" (emphasis added)); cf. DUMAURIER, *supra* note 6, at 290-91 ("[S]he folded her hands across her breast . . . and in a weak voice said: 'Svengali . . .

Having established the ground rules, we may now apply them to Feldman's five specific critiques. Distilled, Feldman essentially argues that . . .

Time out!

B. *The Seventh-Inning Stretch*

Stanley Fish has articulated a critical postmodern precept that I'd almost forgotten: while it isn't important that postmodern writing be *right* (whatever that may or may not mean), it's at least *supposed* to be important that such writing be "INTERESTING."¹³² Were I to write the remainder of this Essay in the postmodern [i.e., flex-o, bend-o, doublethink] style, availing myself of all the above-enumerated rhetorical tricks (obvious though they may be¹³³—and does any reader doubt I could enumerate more?), would the rest of this Essay even satisfy that criterion? Can there *be* an "interesting" Spaceball game? [How's *that* for "taking postmodernism on its own terms"?¹³⁴] Or would it be an intellectually insulting, condescending, predictable and ultimately boring crypto-polemic, not necessarily written *by* a dim-bulb, but surely written *for* them? Indeed, *would there be any reason to continue reading this Essay at all?*

Aristotle, of course, realized millennia ago that "a man investigating principles cannot *argue* with one who denies their existence."¹³⁵ So how can one *argue* with Feldman?¹³⁶ [Do I even *need* to at this point? Could a logical rebuttal do any *good*? On Feldman's principle-free terms, is it *possible*? Could Feldman be persuaded to abandon (or shamed into abandoning) his position no matter *what* I said? Or is Feldman's a theology, to be maintained to the end, come

Svengali . . . Svengali! . . ."); CONRAD, *supra* note 20, at 90 ("She took both [his] hands in hers and murmured 'I had heard you were coming[.]'"); L'HEUREUX, *supra* note 3, at 41 (" . . . but not so soon."); DOSTOEVSKY, *supra* note 16, at 196 (" 'Did you . . . arrive long ago?' she murmured . . . with flashing eyes."). See generally Arrow, *Pomobabble*, *supra* note 2, at 627-28 (distinguishing "low-watt instrumentalist" "pragmatism" from other more coherent varieties).

132. See STANLEY FISH, *IS THERE A TEXT IN THIS CLASS?* 180 (1980) (emphasis added).

133. See generally IRVING R. COPI, *INTRODUCTION TO LOGIC* 69 (3d ed. 1968) ("No one would be misled by this argument, but countless people are 'suckers' . . ." (emphasis omitted)).

134. *Supra* text accompanying note 110 (quoting Feldman).

135. ARISTOTLE, *Physics*, in *THE BASIC WRITINGS OF ARISTOTLE*, at 218, 219 (Richard McKeon ed. 1941) (first emphasis omitted and second emphasis added).

136. See generally EDWIN A. ABBOTT, *FLATLAND* 27 (Harper Collins 1983) (1884) ("If my Spaceland patrons have grasped this general conception, so far as . . . not to reject my account as altogether incredible—I shall have attained all I can reasonably expect.").

what may?¹³⁷ If so, can we even name him a "professor?"¹³⁸ Is Feldman really a closet *monist*¹³⁹—the *antithesis* of a (*gasp!*) *genuine* postmodernist?¹⁴⁰ Should we care? Or is Ronald Dworkin right that whatever Feldman might be trying to market under the commodified "pomo" brand name¹⁴¹ is a mere "subjective display[] in which we need take nothing but a biographical interest"¹⁴²—if that?]

Be that as it may, for the benefit of non-postmodern readers who have persevered through the nauseating¹⁴³ doublethink reflected in the above-catalogued postmodern "principles" of argumentation, I'm going to *try* (advance condolences gratefully accepted) to argue with Feldman. And the astute reader (*you*, in *MY Weltanschauung*) will have realized that even though I've yet to confront his specific critiques directly, I've been pursuing an Aristotelian approach thus far: that "[w]hen the objects of an inquiry . . . have *principles, conditions, or elements*, it is through acquaintance

137. See *supra* note 14 (quoting Feldman and Thomas Mann on the relationship of theology to "philosophy"). See generally *infra* note 154 (quoting Mark Lilla on Deconstruction, and perhaps suggesting that susceptibility to shame is not a noteworthy characteristic of Deconstructionists).

138. Interestingly enough, it is the (*gasp!*) *candid* postmodernist, Stanley Fish, who raises this issue, in the context of *institutions* whose views are not fallibilist and thus not subject to revision. See FISH, *supra* note 53, at 37 (footnote omitted) (emphasis added):

[There is] . . . a famous passage in the declaration of principles of the American Association of University Professors, first published in 1915 and left in place (if only by silence) in subsequent declarations. In that passage the AAUP denies to religiously based institutions the name of "university" because "they do not, at least as regards one particular subject, accept the principles of freedom and inquiry." Such institutions, the association grandly allows, may continue to exist, "but it is manifestly important that *they should not be permitted to sail under false colors*," for "genuine boldness, and thoroughness of inquiry, and freedom of speech are scarcely reconcilable with the . . . inculcation of a particular opinion upon a controverted question." It is not that controverted questions should not be asked, but answers to them should not be presupposed and insulated from the challenge of free *rational* inquiry.

139. ARISTOTLE, *supra* note 135, at 219 ("The [first] principles in question must be either (a) one or (b) more than one. If (a) one, it must be either (i) motionless . . . or (ii) in motion . . ."). [HMMMMMMMM. . . A motionless one? A solipsistic zero?]

140. See Francis J. Mootz III, *Postmodern Constitutionalism as Materialism*, 91 MICH. L. REV. 515, 523 (1992) ("A postmodern legal practice would embody dialogic openness."); *id.* at 515 (criticizing Jack Balkin's thesis that a postmodern constitutionalism must focus on materialism). But cf. *supra* note 14 (quoting Feldman on the inextricable intertwining of "philosophical hermeneutics" with "Derridean [neo-Marxist] deconstruction").

141. Cf. RULES FOR POSTMODERNISTS, *supra* note 4, No. 216 ("Label your tribe.").

142. Ronald Dworkin, *Objectivity and Truth: You'd Better Believe It*, 25 PHIL. & PUB. AFF. 87, 88 (1996).

143. Cf. TOLSTOY, *supra* note 6, at 141 ("[A]s soon as the . . . reader . . . feels that the author . . . does not . . . feel what he wishes to express[,] . . . a resistance immediately springs up, and the . . . newest feelings and the cleverest technique not only fail to produce any infection but actually repel.").

with these that knowledge . . . is attained."¹⁴⁴ The quotations from Feldman (and other postmodernist writers) that I've embedded thus far in the footnotes have revealed most of the "principles, conditions, or elements" that have enabled us to move the discussion forward to this point. The ones Feldman reveals in his specific critiques of my work will enable us to move it still further. So to level the playing field (to Feldman's benefit)—and to keep it "interesting"—"let us deconstruct [him] in the Aristotelian manner."¹⁴⁵ I assure the reader that that won't take long.

C. *The Bottom of the Ninth*

With the smoke and mirrors blown away, Feldman essentially advances five critiques of my work: (1) Law-school pomo isn't what I say it is; (2) *Pomobabble*'s too long, since I use its footnotes (which are, after all, only "largely unconnected and arbitrary references to famous literary figures,"¹⁴⁶ and ultimately "nonsensical"¹⁴⁷) solely to portray pomo's vapidty; (3) *Pomobabble*'s "mean spirited," since I invite my readership to laugh along with me at pomo; (4) I don't critique pomo on its own terms; and (5) Despite my most vigorous protestations, pomoers *can* be political. (Feldman does make a few other more minor observations, but we'll get to them in Section D of this part,¹⁴⁸ where there will be at least one more—hopefully *interesting*—plot twist.) But for now, batter up.

1. I Just Don't "Get It"

Because I assume the intelligence of *my* readers, I'm comfortable leaving an evaluation of how much I understand and how much I don't to you.¹⁴⁹ *Pomobabble* contained two hundred pages of

144. ARISTOTLE, *supra* note 135, at 218 (emphasis added).

145. L'HEUREUX, *supra* note 3, at 9.

146. Feldman, *supra* note 21, at 2354-55.

147. *Id.* at 2368.

148. *Infra* notes 210-25 and accompanying text.

149. Cf. UMBERTO ECO, *THE NAME OF THE ROSE* 465 (William Weaver trans., Harcourt Brace Jovanovich, Inc. 1983) (1980) ("You know that it suffices to . . . reconstruct in one's own mind the thoughts of the other."); CULLER, *supra* note 56, at 102 (same, but noting that in pomo, the idea's been named "*dédoublément*"); CONRAD, *supra* note 20, at 12 ("Are you an alienist? . . . 'Every doctor should be—a little.'"); FOUCAULT, *supra* note 30, at 195 ("What was fundamentally invisible is suddenly offered to the brightness of the gaze, in a moment of appearance so simple, so immediately that it seems to be the natural consequence of a more highly developed experience."); PYNCHON, *supra* note 35, at 276 ("Earlier the conspiracy was monolithic, all potent, nothing [that] could [be] touch[ed]."). But cf. DELILLO, *supra* note 121, at 184 ("It was only after mo-

footnotes and thousands of citations, and *Messianism* and the instant work quite a few more. If *that* hasn't done it, nothing I do in this subsection will. But Feldman blasts me (along with Richard Posner, Ronald Dworkin, Brian Leiter, Arthur Austin, and others) for simply failing to "get" pomo (or at least misinterpreting it),¹⁵⁰ perhaps because it's so "complex," or due to our (or some of our) "slipshod scholarship,"¹⁵¹ or (perhaps more charitably) scholarship that's not up to Feldman's very high standards.

I confess at the outset to being delighted to be among the "slipshod scholar[s]" Feldman lists. And for what it's worth, Ron Krotoszynski, a bright guy who took some rather vigorous swings at *Pomobabble*, didn't appear to think it *misdescribed*.¹⁵² Nor did a single one of the hundred or so letters (mostly pro, some con) that I got from law professors (and others) commenting on *Pomobabble*. But come to think of it, you won't have to trust me after all: my star (and surprise) witness is . . . *Stephen Feldman!*

We can approach this particular pitch from three perspectives. First, the reader will have noticed that in addition to citing numerous other postmodernists (including everybody who vetted Feldman's essay except Marty Belsky) herein, I've also sprinkled citations to (and quotations from) Feldman rather liberally throughout the footnotes. In short, I've used Feldman's own words (and those of his vetters) to establish many of my own points.¹⁵³ [That's the potential cut fastball.]

ments of intense scrutiny that I'd been able to spot the hole. . . ."); *id.* at 188 (" . . . because it's laser-drilled. . . . The drug is delivered at specified rates for extended periods"); PYNCHON, *supra* note 35, at 819 (" . . . [and] the hallucinations are unique. . . . [T]HEY RECUR. Certain themes will find certain INDIVIDUALS *again and again*. . . . Jeaach calls them 'the dullest hallucinations known to psychopharmacology.'" (emphasis added)). See generally MacFarquhar, *supra* note 39, at 67 (quoting Stanley Fish: "According to Milton, you can't know evil unless it's a part of your thought, but you can recognize it as the *category* of the absurd, the stupid, the insane." (emphasis added))).

150. See Feldman, *supra* note 21, at 2358 (me); *id.* at 2357 (Posner); *id.* at 2356 (Dworkin); *id.* (Leiter); *id.* at 2357 (Austin).

151. *Id.* at 2363.

152. Cf. *supra* note 77 (quoting a number of Krotoszynski's assessments—including some that suggest that I've hit rather close to the mark).

153. See *supra* notes 4, 13, 14, 21, 40, 56, 59, 71, 83, 93, 104, 105, 106, 109, 110, 111, 113, 114, 116, 121, 122, 124, 134, 137, 140, 146, 147, 150, 151; *infra* notes 154, 155, 156, 157, 163, 169, 170, 171, 172, 175, 181, 182, 187, 195, 196, 197, 198, 199, 201, 203, 213, 216, 221, 222, 227, 230, 232, 235, 241, 244, 253, 257, 264, 266, 273, 279. Of course, Feldman can always argue that I've *misinterpreted* him (or resort to the other techniques of evasion enumerated above), but right now we're playing *baseball*—not *Spaceball*. [Any wagers on the identity of the first postmodernist who'll try to make something of Charles Yablon, *The Contribution of Baseball to American Legal Theory*, 104 YALE L.J. 227 (1994), in response? And no, I'm *not* going to cite *The Common Law Origins of the Infield Fly Rule*. See *Aside, The Common Law Origins of the Infield Fly Rule*, 123 U. PA. L. REV. 1474 (1975) (authored by William S. Stevens).]

But second, let's also look for a moment to the last component of Feldman's essay, where he (1) tries to convince the reader that there's a difference between what he names "antimodernism" and what he names "metamodernism" [carefully sorting through Feldman's obfuscatory pomobabble, there's only one difference—*maybe*¹⁵⁴]; (2) rather poignantly implores everybody within earshot

154. Giving Feldman his due, he does state—in one of the few (at least substantially) non-pomobabble sentences in that section—that "antimodernists" favor obscure writing [which he elsewhere characterizes as "maddeningly muddled and obscure" "poor" writing, *see* Feldman, *supra* note 21, at 2366, while "metamodernists" are in "the clear camp." *Id.* at 2375 n.96. Even so [and obviously NEVER wishing to be pinned down, *see generally* FARINA, *supra* note 10, at 37 ("Can't be classified is where it's at. . . . 'No responsibility, you mean.' 'Check.'"); EMMANUEL LEVINAS, *Substitution*, in *THE LEVINAS READER* 88, 90 (Seán Hand ed. & Alfonso Lingis trans., Blackwell Publishers 1989) (1968) ("What is essential is a refusal to be tamed or domesticated by a theme."); FARINA, *supra* note 10, at 24 ("No index card for me, I'm Exempt. Secret identity mortally guarded, for I am the Plastic Man, able with an effortless shift of the will to become a bowling ball, a pavement, a door, a corset, an elephant's contraceptive." (quoting Gnosnos))], Feldman immediately qualifies his (now *formerly*-clear) clarity/obscurity proposition by stating further that the distinction is only a "very rough approximation." Feldman, *supra* note 21, at 2375 n.96. "PERHAPS." *Id.* (emphasis added). *See generally* RULES FOR POSTMODERNISTS, *supra* note 4, No. 209 ("Hedge."); *id.* No. 238 ("Guarantee nothing."); *id.* No. 307 ("Buy time.").

Want to know why "metamodernists" are good, "moderate," postmodernists as opposed to those bad, "anything goes," "antimodernist" postmodernists? BECAUSE "metamodernists" "might explain [talk about] . . . how we use reason, have knowledge [but cf. *supra* note 21 (quoting Feldman on epistemology: It's through talk.)], and discuss [talk about] truth." Feldman, *supra* note 21, at 2374 (emphasis added); *see also* Richard Rorty, *The Banality of Pragmatism and the Poetry of Justice*, 63 S. CAL. L. REV. 1811, 1813-14 (1990) ("We new pragmatists [?] talk about language [talk] instead of experience. . . . [W]e have become suspicious of the term 'scientific method.'" (emphasis added)); Martha Minow, *Incomplete Correspondence: An Unsent Letter to Mary Joe Frug*, 105 HARV. L. REV. 1096, 1100 (1992) ("[Mary Joe Frug] urge[s] . . . law reformers [to] . . . welcome the fluidity of language and meanings and participate in controversies [talk] about discourse [talk] rather than hoping to pin things down."); PIERRE SCHLAG, *LAYING DOWN THE LAW: MYSTICISM, FETTERISM, AND THE AMERICAN LEGAL MIND* 20 (1996) ("Talk and Talk and Talk about Talk and Just Keep on Talking.").

But Feldman's on a roll. Want to know—specifically—why "anything doesn't go" (whatever *that* means) for those good, "metamodernist" postmodernists? "[B]ECAUSE we [whoever "we" are] are necessarily constrained, since we [same comment] always are situated [though *where*, only God(amer) knows]." Feldman, *supra* note 21, at 2374-75 (emphasis added). [Boy, *that* sure adds structure, reassuring *me* that "anything doesn't go." I know *I'm* relieved. *You?*]

Want to know why those good "metamodernists" aren't scientific relativists? BECAUSE Thomas Kuhn, properly (*gasp!*) interpreted,

explains exactly how science is possible, *even though we cannot meaningfully access any type of brute data*. When a scientist participates in a communal paradigm ["talks"], . . . [s]he knows what *questions are interesting* [cf. RULES FOR POSTMODERNISTS, *supra* note 4, No. 83 ("Pose reality as an interesting hypothesis.")], how to *search* for data [though she can never *find* them], how to *present* ["talk about"] findings, AND SO FORTH.

Id. at 2375 (emphasis added). *But she still won't "know" anything*, so we're back to the epistemological agnosticism. [And what do those "bad" "antimodernists" do? Jump off buildings? Eat poison? Travel to outer space without Rockets?] Cf. Delgado, *supra* note 114, at 1067 (noting the existence of "motions for a more definite statement"); *id.* at 1068 (noting the existence of "Rule 11, which provides for sanctions for frivolous claims"). *But cf.* RULES FOR POSTMODERNISTS, *su-*

(eyeshot?) to adopt his cynical and fatuous Emperor's New Clothes duality (*oops!*) "dichotomy" (and cite him for inventing the names),¹⁵⁵ and (3) explains that *nobody's* a "bad" or "anything goes" (whatever that means) "antimodernist," up to and including "the later" Stanley Fish.¹⁵⁶ Isn't the jargon, epistemology, and "reasoning" (such as it is) contained in Feldman's short, five-page section sufficient to itself corroborate at least half (maybe more) of my claims? [That's the potential change-up.]

And third, let's identify the characteristics that I claim are postmodern, but that Feldman chooses not to defend by omitting them from the "metamodern" half of his clandestinely-privileging pseudo-duality. Surely a scholar whose scholarship is as well researched as Feldman's is aware of the mysticism and dualism that underlie Derridean deconstruction (which Feldman at least *thought* he was defending only last year¹⁵⁷) at its core. Unless, of course,

pra note 4, No. 22 ("Beg the question."); *id.* No. 331 ("Talk your vernacular."); *id.* No. 314 ("Bullshit."); *id.* No. 251 ("Enjoy the confusion."); *id.* No. 192 ("Mess around."). See generally *supra* note 70 (quoting Thomas Pynchon: "If they can get you asking the wrong questions, they don't have to worry about answers."); Arrow, *Pomobabble*, *supra* note 2, at 660 (defining "THEREFORE"—in Pomoland: "Maybe it's got something to do with it. On the other hand, maybe it doesn't. On the other hand. . ."). Are you beginning to feel just a bit . . . well . . . *handled*? But cf. PYNCHON, *supra* note 35, at 860 ("This is sado-anarchism and Thanatz is its leading theoretician in the Zone these days."); Mark Lilla, *The Politics of Jacques Derrida*, N.Y. REV. BOOKS, June 25, 1998, at 36, 38 ("[D]econstruction means you never have to say you're sorry.").

155. See Feldman, *supra* note 21, at 2374. And if any postmodernists *do* (to blow more smoke at the marks), cf. HEINLEIN, *supra* note 21, at 405 ("We close down the Church of all Worlds. . . . So we move and open the Congregation of the One Faith—and get kicked out again. Then we reopen elsewhere as the Temple of the Great Pyramid . . ."); ALINSKY, *supra* note 123, at 131 ("[T]he problem . . . is that of *identifying* the enemy. . . . [A]nd so it goes on in a comic . . . routine of 'who's on first' or 'under which shell is the pea hidden' " (emphasis added)); Arrow, *Pomobabble*, *supra* note 2, at 666 (defining "WE"—in Pomoland), then you'll have footnote 154 of *this* Essay to cite right back. [And adding the names "POMOBABBLE" and "SPACEBALL" to the discourse ought to *really* get 'em going, *nicht wahr*? Cf., e.g., John Leo, *Tower of Pomobabble*, U.S. NEWS & WORLD REP., Mar. 15, 1999, at 16, 16 (crediting Your Humble Narrator with the naming); *supra* note 46 (supporting the proposition that the Pomobabble name has now "gone global").]

156. Feldman, *supra* note 21, at 2375-76. Fish would no doubt be insulted by Feldman's characterization. See FISH, *supra* note 53, at 8 ("I know that some of my readers will think that I have revealed myself . . . to be one of those horrible persons who professes a morality of ends rather than means. BUT THAT HAS BEEN MY STANCE FROM THE BEGINNING." (emphasis added)); *supra* note 118 (quoting Fish, responding to a question: "'Although you bill yourself as being 'against principles,' doesn't your own argument suggest that you would have recourse to the vocabulary of principle if it suited your ends?' 'Right.' "). But I'm glad to know that the "new" Fish is what Feldman is defending; logically, it allows me to equate Fish's views with those of Feldman's "good" "metamodernists," streamlining and simplifying my task (though how Feldman can argue that "the later Fish" isn't an "anything goes" guy in light of the statements I quote from the 1999 Fish can only boggle the mind). [But trust me. . . . Don't think about it *too* hard. Cf. CONRAD, *supra* note 20, at 78 ("'No method at all, I murmured.' 'Exactly,' [Kurtz] exulted.' "); PYNCHON, *supra* note 35, at 864 ("Most of the others gave up long ago trying to hold him together, even as a concept.").]

157. See *supra* note 14 (quoting Feldman).

he's only interested in Derrida's rather shallow political *conclusions*, and not the theological/mystical bases for the deconstruction that (in Derrida's marketing plan) got him there.¹⁵⁸ Surely Feldman understands the foundational stuff, too. But over the cliff goes Kabbalism, mysticism, mystical dualism, holy sinners, and any Derrida that's not directly political—omitted from the “metamodernist” list of virtues.

And surely Feldman's aware of the Death-obsession of post-modern icons Martin Heidegger¹⁵⁹ and Michel Foucault,¹⁶⁰ and the utility that a number of contemporary decon/postmodernists have found in promoting such a psychological state (or at least depression¹⁶¹) for instilling the sense of Urgency that's necessary to prepare the proles for class struggle.¹⁶² But at least some of the psycho-

158. See Arrow, *Pomobabble*, *supra* note 2, at 491-502 n.24 (quoting and analyzing Derrida, and citing (*gasp!*) authority).

159. See KRISTEVA, *supra* note 16, at 4 (“Montaigne's statement ‘*To philosophize is to learn how to die*’ is inconceivable without the *melancholy combination* of sorrow and HATRED—which came to a head in Heidegger's case and the *disclosure* of our [?] ‘being for [D]EATH.’” (emphasis added)); BEREL LANG, HEIDEGGER'S SILENCE, at xiv (1996) (quoting Heidegger: “Every thinker thinks but a single thought.”).

160. FOUCAULT, *supra* note 30, at ix (“This book is about *space*, about *language*, and about [D]eath. . . .” (emphasis added)); Alexander Nehamas, *Subject and Abject*, NEW REPUBLIC, Feb. 15, 1993, at 27, 35 (noting “Foucault's long-standing obsession with [D]eath,” but resisting Foucault biographer James Miller's rather obvious observation that Foucault's Death-obsession accounted for most of his writing); Arrow, *Pomobabble*, *supra* note 2, at 557-59 n.33 (suggesting that it explains far more than Foucault's writing); *id.* at 583-91 n.39 (commenting on Derrida, Foucault, and deconstruction-as-envy-and-hate).

161. Cf. KRISTEVA, *supra* note 16 at 4 (“I live a living [D]eath. . . . Time has been erased or bloated, absorbed into *sorrow*. . . .” (emphasis added)); *supra* note 16 (quoting, *inter alios*, Kristeva and Dostoevsky's Urgent revolutionary, Pyotr, on Gloom); DERRIDA, *supra* note 8 (including “the Work of Mourning” in the subtitle to his recent book on Marx); LANG, *supra* note 159, at xi (contemplating “fin-de-siècle melancholy” and the “new hyperconsciousness”); Arrow, *Pomobabble*, *supra* note 2, at 580-87 n.39 (quoting Elizabeth Wurtzel—before the Prozac kicked in) (emphasis added):

They have no idea what a bottomless pit of misery I am. *They* will have to do more and more and more. . . . [*T*]hey are still not listening. *They* still don't know that . . . *they* need to try to get through to me until *they* haven't slept or eaten or breathed fresh air for days, *they* need to try until *they've* died for me. *THEY* HAVE TO SUFFER AS I HAVE. And even after *they've* done that, there will still be more. *They* will have to REARRANGE THE ORDER OF THE COSMOS, *they* will have to END THE COLD WAR. . . . [*T*]hey will have to CURE HUNGER IN ETHIOPIA and END THE SEX-SLAVE TRADE IN THAILAND. . . . *They* have no idea how much energy and exasperation I am willing to suck out of *them* until I feel better. I will drain *them* and drown *them* until *they* know how little of me there is left even after I've taken everything *they've* got to give me because *I hate them for not knowing*.

162. See BELL HOOKS & CORNEL WEST, BREAKING BREAD 33 (1991) (quoting West: “As a Philosopher [?], I'm fundamentally concerned with how we confront [D]eath, dread, despair, disappointment, and disease. . . . And sociologists, economists, social scientists . . . are not primarily concerned with how individuals confront their inevitable [D]oom, their inescapable [E]xtinction.”); *id.* at 52 (quoting West: “[U]nfortunately, we do indeed have very, very strong

logical tools (and the psyches) of Heidegger, Foucault, Derrida, Kristeva, and West (at least ostensibly) go over the falls, too. As *useful* as those “principles, conditions, or elements” might be to the decon/postmodernist program,¹⁶³ why would Feldman jettison them¹⁶⁴ [and there are, as the reader well knows, lots more¹⁶⁵—*if he knew about them*? It must be another “paradox”: even though Richard Rorty may “have no idea what ‘postmodernism’ means”¹⁶⁶ (and therefore how the psychological/emotional elements of pomo fit together with its epistemological and political ones), surely *Feldman* does. I’m sure he’ll help me with my fundamental misconceptions in his next fifteen or twenty law-review articles on the subject. [Chin music? Tough choice.]

2. The “Unconnected” and “Nonsensical” Nature of *Pomobabble’s* Footnotes

Well, you either “get” ’em or you don’t, though in *Messianism* I provided (and I’ve herein reproduced¹⁶⁷) a capsule description for readers who haven’t had the time to tackle *Pomobabble’s* novel-length mass. And if you’ve been reading the footnotes to this essay, you’ll also have a pretty good idea of how “unconnected,” “random,” and incoherent my footnotes can be. Some people (including my ear-

expressions of gospels of *wealth* and *health*.” (emphasis added)); *id.* at 52 (quoting hooks, prescribing Cuban movies as the antedote). West apparently at least *thinks* that he’s a postmodernist. *See id.* at 23 (describing West as a “[t]heorist of postmodernism”); *cf. id.* at 22 (quoting West declaring his allegiance to “Marxist social analysis and political praxis”). *See generally* KARL MARX, *THE COMMUNIST MANIFESTO* 36-37 (Henry Regnery Co. 1954) (1848) (“In depicting the . . . development of the proletariat, we traced the more or less VEILED civil war, *raging* within existing society, up to the point where that war breaks out into open revolution, and where the violent overthrow of the bourgeoisie lays the foundation for the sway of the proletariat.” (emphasis added)).

163. Remember, Feldman says they’re inextricably intertwined. *See supra* note 14 (quoting Feldman).

164. I haven’t read all of Feldman’s half-million or so published pages on pomo (maybe next winter), but Richard Delgado (one of Feldman’s vetters) counsels us to limit our critiques to *contemporary* positions—not older ones that the author may have abandoned. *See* Delgado, *supra* note 114, at 1064-65; *cf. RULES FOR POSTMODERNISTS*, *supra* note 4, No. 332 (“Mutate.”). So why not?

165. *See generally* PATRICIA M. SPACKS, *BOREDOM*, at ix (1995) (“The title of this book straightforwardly announces its subject but it hardly suggest that subject’s *complexity*.” (emphasis added)).

166. Richard Rorty, *Knowledge and Acquaintance*, *NEW REPUBLIC*, Dec. 2, 1996, at 46, 46 (reviewing RAY MONK, *BERTRAND RUSSELL: THE SPIRIT OF SOLITUDE, 1872-1891* (1996)).

167. *See supra* text accompanying note 97.

lier critic Ron Krotoszynski) get 'em;¹⁶⁸ Feldman doesn't.¹⁶⁹ That's OK.

3. Parodies Are "Mean-Spirited"

One of my favorites. Feldman accuses me of being "mean-spirited" because (he asserts) I distort pomo, and because I "want others to join [me] in the mockery, to castigate [it] . . . for being 'laughable.'" ¹⁷⁰

Well, innocent on the first charge, and guilty on the second. (But on Feldman's reasoning, *all* parodies are "mean-spirited.") And for me to suggest *laughter*, after all, seems a wholly moderate response to law-school pomo. *Anger* at the insincerity, intellectual condescension, pretension, sleight-of-hand, doublespeak, and hubris of the overwhelming bulk of postmodern "scholarship"¹⁷¹ (not to mention its inextricably interrelated¹⁷² antidemocratic, Derridean, counterproductively divisive, neo-Marxist political conclusions)

168. See *supra* note 77 (quoting Krotoszynski). Somehow, I suspect that Leo Strauss would have figured it all out, too. See LEO STRAUSS, PERSECUTION AND THE ART OF WRITING 24-25 (Univ. of Chicago Press 1988) (1952):

The expression "writing between the lines" indicates the subject of this article. For the influence of persecution . . . is precisely that it compels all writers who hold heterodox views to develop a peculiar technique of writing . . .

. . . The attack, the bulk of the work, would consist of virulent expansions of the most virulent utterances in the holy book or books of the ruling party. The intelligent young man who, being young, had until then been somehow attracted by those immoderate utterances, would now be merely disgusted and, after having tasted the forbidden fruit, even bored by them. Reading the book for the second and third time, he would detect in the very arrangement of the quotations from the authoritative books significant additions to those few terse statements which occur in the center of the rather short first part.[.]

cf. Richard Pevear, *Foreword* to FYODOR D OSTOEVSKY, DEMONS, at xiv (Richard Pevear & Larissa Volokhonsky trans., Vintage Classics 1995) (1872) ("[A] certain clumsy use of parentheses . . . [is Dostoevsky's] deliberate mockery of [Nikolai] Chernyshevsky's writing."); *id.* at xiv-xv ("Dostoevsky . . . was challenged to reveal 'the man in man,' precisely in and through the ideas of the new radicals themselves. . . . But the reversal is not a simple contrary; it is the puncturing of a literary cliché by a truth drawn from a different source . . .").

169. See *supra* text accompanying notes 146-47 (quoting Feldman). [And while we're contemplating what Feldman doesn't "get," the "[sic]" that Feldman adds while quoting an excerpt from *Pomobabble*, see Feldman, *supra* note 21, at 2353-54, perhaps also suggests that he doesn't "get" my wordplays, either. But cf. Arrow, *Pomobabble*, *supra* note 2, at 464 & n.9 (inserting a footnote in the middle of the word to assist those who might not otherwise have "gotten" that one to do so).]

170. Feldman, *supra* note 21, at 2358.

171. Cf. *supra* note 138 (quoting Stanley Fish—one of Feldman's "good" postmodernists—perhaps supporting the inference that naming it *scholarship* [without the scare quotes] would empower it to "sail under false colors").

172. Remember (at least for present purposes), it's Feldman who's linked law-school pomo to "Derridean deconstruction." See *supra* note 14 (quoting Feldman).

might¹⁷³ be an even *more* appropriate reaction.¹⁷⁴ But I haven't suggested that postmodernists be burned at the stake, and unlike Feldman's "good," "metamodernist" postmodernist Stanley Fish,¹⁷⁵ I haven't even *thought* of it.¹⁷⁶ [Well actually, now that I *do* think of it¹⁷⁷]

Nor, as Paul Carrington suggested with respect to the CLSers a generation ago (and law-school pomo, as everybody knows, is nothing but French-Fried CLS), have I suggested that

173. *But cf. infra* note 180 (perhaps suggesting yet another alternative).

174. *Cf. WHITMAN, supra* note 107, at 1 (emphasis added):

A Phantom arose before me with distrustful aspect,
Terrible in . . . age, and power,
The genius of old lands,
As to me directing like flame its eyes,
With finger pointing to many immortal songs,
And menacing voice, What singest thou? it said
Knowest thou not that there is but one theme for ever-enduring bards?
And that is the theme of War, the fortune of battles,
The making of perfect soldiers.
Be it so, then I answer'd,
I too haughty Shade also sing war, and a longer and greater one than any . . .
Lo, I too am come, chanting the chant of battles[.]

FRANZ A. KAFKA, AMERIKA 3 (Willa Muir & Edwin Muir trans., Schocken Books 1962) (1927) ("[A] sudden burst of sunshine seemed to illuminate the Statue of Liberty. . . . The arm with the sword rose up as if newly stretched aloft"); MANN, *supra* note 30, at 252-53 (narrating the thoughts of Sirenus Zeitblom, Ph.D.) (emphasis added):

That the flabby DEMOCRACIES did know after all how to use these frightful tools is a staggering revelation, weaning us daily from the mistaken idea that war is a German prerogative. . . . We await the attack, from all sides, with preponderance of material and millions of soldiers on our European fortress—or shall I say our prison, our madhouse?[:]

CONRAD, *supra* note 20, at 58 (quoting Marlow: "I had . . . judged the jungle of both banks quite impenetrable—and yet eyes were in it, eyes that had seen us."); *id.* at 75 ("[A] cry arose whose shrillness pierced the still air like a sharp arrow flying straight to the very heart of the land"); *id.* at 60 ("Arrows, by Jove! We were being shot at!"); JUDITH TARR, ARROWS OF THE SUN (1993) (emphasis to title added); PYNCHON, *supra* note 35, at 836 ("Maybe I was a Melvin Purvis G-Man. . . . For *Post Toasties*.' For whom? The German actually thinks *Post Toasties* is the name of some American Fuhrer"); *supra* note 107 (quoting Gertrude Stein: "[P]erhaps Europe is finished."); CONRAD, *supra* note 20, at 86 (quoting a voice from the wilderness: "Mistah Kurtz—he dead.").

But cf. SUN TZU, THE ART OF WAR 177 (Ralph D. Sawyer & Mei-Chun Lee Sawyer trans., 1994) ("Preserving [the enemy's] army is best, *destroying* their army *second-best*." (emphasis added)). [How am I doing?] *Cf. T.S. ELIOT, The Hollow Men*, in T.S. ELIOT: THE COMPLETE POEMS AND PLAYS, 1909-1950, at 56, 56 (1952) ("Mistah Kurtz—he dead.").

175. *See supra* note 156 (quoting Feldman).

176. *Cf. MacFarquhar, supra* note 39, at 71 (quoting Fish):

If conviction is not simply a component in an endless liberal debating society, there is always going to be some point at which you are going to say, "Not X; them we burn." And if you are never willing to say that, it is hard to see what you are doing and why you should continue doing it.

177. *See generally* STEIN, *supra* note 43, at 134 ("IF NOT WHY NOT." (emphasis added)). [Surely not those *passé*, liberal *principles* (*gasp!*) of reason, toleration, and mutual respect]

Professor Feldman (or any of his co-pomoers) depart the legal academy.¹⁷⁸ [Perhaps along with Stanley Fish, however, I admit to wondering about his professorial *title*,¹⁷⁹ and wonder as well why anybody who wasn't a terminally-desperate Leftist Visionary would want to hire *more* of 'em (perhaps for the privilege of reading even more of the "talk about talk" stuff, over and over again?¹⁸⁰.)]

And I haven't even suggested that American law reviews stop publishing the pomobabble that the Pomo Corps cranks out. [Though come to think of it, sending a copy of this Essay to each of the editors at the top twenty reviews each spring for the next ten years might be an interesting empirical experiment, and one that might cause the pomoers to re-evaluate the sustainability of their (*gasp!*) duality between "talk about talk" epistemology and the scientific method.¹⁸¹]

But Feldman finds my desire to invoke *laughter* about pomo to be "ad hominem" and "distasteful."¹⁸² I've responded to the former charge above,¹⁸³ so I won't rehearse it here. As to the latter, if I'm "mean-spirited" for parodying pomo, I'm in excellent company once again, since as readers of this Essay will note, pomo's such a fat and hubristic target that it's generated responsive satires and parodies too numerous to count. But more fundamentally, Dostoevsky knew well why Urgent revolutionaries need so desperately to be taken seriously:¹⁸⁴ it's hard to generate Urgency while your marks¹⁸⁵ are rolling on the floor.¹⁸⁶ But isn't comedy now better than tragedy later?

178. See Paul D. Carrington, *Of Law and the River*, 34 J. LEGAL EDUC. 222, 227 (1984).

179. See *supra* note 138 and accompanying text.

180. See, e.g., *supra* note 154 (quoting Feldman writing about talking about talk). But cf. L'HEUREUX, *supra* note 3, at 228 (emphasis added):

[T]he fools . . . *laughed* . . . at . . . Kurtz's plan to supplant English with a Department of Theory and Discourse. It was a *hoot* . . . as so much of the ["theory"] stuff was, just more fascist bullying from the new right wing. *As if books were improved by calling them discourse*. . . . [I]t was FUN to puncture balloons and belittle pomposity and, specifically, to call *un sac de merde* a bag of shit.

See generally *id.* at 50 ("They had seen Kurtzes come and go.").

181. See generally *supra* note 154 (commenting on Richard Rorty's and Mary Joe Frug's preference for the former over the latter); Feldman, *supra* note 21, at 2365 n.54 (quoting Feldman—in the longest footnote of his essay—revealing that it is *very* important to him where his work gets published).

182. Feldman, *supra* note 21, at 2358; cf. *infra* note 194 (commenting, inter alia, on "sensitivity"). See generally RULES FOR POSTMODERNISTS, *supra* note 4, No. 230 ("Politicize your aesthetics, aestheticize your politics.").

183. See *supra* notes 87-89 and accompanying text.

184. Cf. Pevear, *supra* note 16, at xxi ("[D]emons always want to be taken seriously.").

185. Cf. HEINLEIN, *supra* note 21, at 267 ("[M]arks weren't people; they were blobs whose sole function was to cough up cash.").

And wait! Isn't pomo (at least as Feldman tells the tale) *supposed* to be "playful[]"?¹⁸⁷ (I'll again leave it to the reader to decide whether Feldman's or my own writing better satisfies that criterion.¹⁸⁸) And given the pomooers' commitment to the subjectivity of—well—*everything*,¹⁸⁹ you might *think* they'd agree that humor (among all things) is subjective, too.¹⁹⁰ [What does Feldman think anti-parody is: a transcendent and Master Narrative *neutral principle*?¹⁹¹] In expressing his distaste for my (all?) satire, has Feldman

186. Cf. J.T. Knight, Comment, *Humor and the Law*, 1993 WIS. L. REV. 897, 897 ("[H]umor may help expose ideology in articles where opinion is disguised as neutrality . . ."); Pevear, *supra* note 16, at ix ("[L]aughter creates the distance that allows for recognition."); ALINSKY, *supra* note 123, at 128 ("*Ridicule is man's most potent weapon.*"). But cf. Arrow, *supra* note 2, at 650-56 n.50 (exploring the *mal humor* component—and the dead serious tone—of law-school pomo); J. BRONOWSKI & BRUCE MAZLISH, *THE WESTERN INTELLECTUAL TRADITION* 252 (1960) ("[S]atire is intimately connected with urbanity and cosmopolitanism, and assumes a civilized opponent. . . . To hold something up to ridicule presupposes a certain respect for reason, on both sides, to which one can appeal."); ECO, *supra* note 149, at 468 (quoting from the lost manuscript of the second book of Aristotle's *Poetics*—before Jorge ate the book) (emphasis added):

[A]lone among the animals—man is capable of laughter. We will . . . examine the means by which comedy excites laughter, and these means are actions and speech. WE WILL SHOW HOW THE RIDICULOUSNESS OF ACTIONS IS BORN FROM . . . AROUSING SURPRISE THROUGH DECEIT, FROM THE IMPOSSIBLE . . . FROM THE DEBASING OF THE CHARACTERS . . . FROM THE USE OF . . . VULGAR PANTOMIME, FROM DISHARMONY, FROM THE CHOICE OF THE LEAST WORTHY THINGS. WE WILL THEN SHOW HOW THE RIDICULOUSNESS OF SPEECH IS BORN FROM THE MISUNDERSTANDING OF SIMILAR WORDS FOR DIFFERENT THINGS AND DIFFERENT WORDS FOR SIMILAR THINGS, FROM GARRULITY AND REPETITION, FROM PLAY ON WORDS, . . . FROM ERRORS OF PRONUNCIATION, AND FROM BARBARISMS.

But cf. CYRA MCFADDEN, *THE SERIAL* 13 (1977) ("No one could call *Kate* humorless. She never missed *Doonesbury* . . ." (emphasis added)).

187. Feldman, *supra* note 21, at 2368. Maybe not. See *supra* text accompanying note 182 (also quoting Feldman).

188. See generally RULES FOR POSTMODERNISTS, *supra* note 4, No. 47 ("Stake all on the charisma of the storytellers.").

189. But cf. James C. Boyle, *Is Subjectivity Possible? The Post-Modern Subject in Legal Theory*, 62 U. COLO. L. REV. 489, 489 (1991) ("[C]ritical legal theory in particular . . . has concentrated too much on critiques of *objectivity*, wrongly assuming that 'subjectivity' was an unproblematic term. . . . This article reverses the focus, concentrating on the CONSTRUCTION [!] of *subjectivity* in law and social theory" (emphasis added)); ARYEH BOSTWINICK, *POSTMODERNISM AND DEMOCRATIC THEORY*, at xii (1993) ("[F]ormulations of skepticism can legitimately be skeptical of everything but their own tenets."). See generally THE DIXIE CHICKS, *I'm Falling Again*, on *SHOULDN'T A TOLD YOU THAT* (Crystal Clear Records 1993).

190. See Knight, *supra* note 186, at 899 n.16 ("The task of discerning what is . . . humorous from what is not is inherently subjective. This observation is provided by standpoint epistemology, or as it is also known, situational comedy.").

191. But cf. FISH, *supra* note 53, *passim* (arguing that "neutral principles" don't exist). I would have *thought* that Feldman would have agreed with Fish's proposition. But maybe Feldman's just following another (and also, of course, a doublethink) Fish proposition. See *supra* note 118 (quoting Fish, responding to a question: "'Although you bill yourself as being 'against principles,' doesn't your own argument suggest that you would have recourse to the vocabulary of principle if it suited your ends? 'Right.'").

Spaceball, *again*? Feeling handled, *once more*? *Déjà vu*, all over again?

given Ronald Dworkin yet another paradigmatic example to use in establishing that pomo writing is only of "biographical" interest¹⁹²—if Feldman's given us cause to be interested in him at all?¹⁹³

Finally (while, of course, being appropriately "respectful"¹⁹⁴ before throwing cold water on pomo's adjective-and-metaphor-party), for Feldman to imply that I mock (and perhaps¹⁹⁵ beat up) little handicapped girls on school playgrounds¹⁹⁶ is just *too much!* [And if I find out who ratted me out, I'm going to *beat-the-h*

4. I Don't Critique Pomo On Its Own Terms

*I don't?*¹⁹⁷

192. See text accompanying note 142 (quoting Dworkin).

193. See generally WAYNE C. BOOTH, *THE RHETORIC OF FICTION* 220 (1961) ("Interesting narrators are interesting.").

194. After William Ewald revealed Seventies Messiah Roberto Unger (who was then being talked about worshipfully—and hopefully—as the "new Karl Marx") to be something of a dilltante (if not an intellectual charlatan), see William Ewald, *Unger's Philosophy, A Critical Legal Study*, 97 YALE L.J. 665 (1988), Cornel West pioneered Feldman's (and Krotoszynski's) deflective tactic by characterizing Ewald's work as a "mean-spirited academic putdown," Cornel West, *CLS and a Liberal Critic*, 97 YALE L.J. 757, 758 (1988). West's prescription? That Ewald should have been more "respectful" and "guarded." *Id.* at 757. But cf. DOSTOEVSKY, *supra* note 16, at 175 ("[E]xcuse me, we will talk about harshness and mildness later, and for now I only ask you to answer the first question: *Is everything I said true, or not?*" (emphasis added)). But cf. L'HEUREUX, *supra* note 3, at 175 ("You've hurt my feelings. Some of us are more SENSITIVE than others.") (emphasis added); ENGELBERT HUMPERDINK, *Feelings, on FEELINGS* (Special Music 1996) ("Feelings. Wo wo wo feelings. Wo wo wo feelings . . ."). But cf. MacFarquhar, *supra* note 39, at 64 (quoting Walter Benn Michaels, who Stanley Fish (tongue-in-cheek) suggested appointing as the head of the Afro-American Studies department at Chicago Circle: "My work is not interested in the feelings of anybody."); WURTZEL, *supra* note 16, at 326 ("Taking a hypersensitive approach to life had come to seem so . . . pure. . . . What I'd stopped realizing was that if you feel everything intensely, ultimately you feel nothing at all.").

195. See *supra* note 154 (quoting Feldman: "Perhaps . . ."); cf. *supra* text accompanying note 73 (quoting the abstract to *Pomobabble*, which parodies Feldman's "perhaps"—four years before he wrote it).

196. See Feldman, *supra* note 21, at 2358; cf. RULES FOR POSTMODERNISTS, *supra* note 4, No. 125 ("Exhibit the mark of the Other.").

197. At one point, Feldman recognizes that *Pomobabble's* style is postmodern. See Feldman, *supra* note 21, at 2367. [I'm purposefully omitting Feldman's predictable hedges, qualifiers, and evasions; the reader can by now intuit what they'll be.] At another, earlier point (where he seems just a bit more miffed), he suggests (with the predictable caveats) that *Pomobabble's* just "bad postmodernism."

Actually, he's right (sort of) *both* times (at least by his own definitions—which he doesn't practice). The style of *Pomobabble* is postmodern (though not deconstructionist postmodern, which to Feldman is the only kind that counts) in that it's playful and makes reference to agglomerations of fragments to illustrate my points. Cf. Arrow, *Messianism*, *supra* note 14, at 155 n.31 ("In fact, the string-citation style found in most of *Pomobabble's* footnotes is an illustration of how the fragments that the postmodernists think they have permanently deconstructed (and then some) may be pieced back together—to reveal a truth more enduring and complex . . . than

And even if I didn't, *why should I?*¹⁹⁸

they can even imagine."). But since I'm not a slavish, power-paradigm, neo-Marxist linear thinker (and Feldman *does* practice the "Derridean political deconstruction" component of his pomo definition), by Feldman's definition, *see supra* note 14 (quoting Feldman), mine's "bad" pomo since my conclusions (unlike his) aren't monotonic.

198. Even Feldman seems to be aware that he has no answer to this one. *Cf.* Feldman, *supra* note 21, at 2366 n.60 ("[T]he same problem appears in reverse. That is, postmodernists tend to portray modernists in postmodern terms or categories, which the modernists tend to reject."). Apart from that, of course, Feldman's self-privileging skyhook would require us to critique Hitler from an anti-Semitic perspective, and so on.

But that's too easy: how 'bout a defense—a *substantive* one, at that, *cf.* FISH, *supra* note 53, at 3 ("[The] word . . . substantive . . . is the key. . .")—of logic and scientific method? I suspect I'll not be able to do much better than W.V. Quine and E.O. Wilson on those fronts. Quine gives us a premise on the basis of which we might address a pretty good question to Feldman:

[L]et us not underestimate the price of a deviant logic. There is a serious loss of simplicity, especially when the new logic is not even a many-valued truth-functional logic. And there is a loss, still more serious, on the score of familiarity. . . . The price is perhaps not quite prohibitive, but the returns had better be good.

QUINE, *supra* note 122, at 86; *cf.* DERRIDA, *supra* note 8, at 27 ("This is where our question would come in.").

[UHHHHHH . . . PROFESSOR FELDMAN? What's the payoff?]

And on the empiricist front (postmodernists, don't get your hopes up: I'm not going to try to "prove" the existence of the real world on the basis of your mystical, anti-realist, and clandestinely dualist "epistemology," which takes as an *article of faith* that nothing nonmathematical can be "proved"), let's turn for a moment to E.O. Wilson, who raises even a more fundamental issue:

Only in the last moment of human history has the delusion arisen that people can flourish apart from the rest of the living world. Preliterate societies . . . struggled to understand . . . that the right responses gave LIFE and fulfillment, the wrong ones sickness, hunger, and [D]EATH. The imprint of that . . . is to be found among the particularities of human nature. . . . We do not understand ourselves yet and descend farther from heaven's air if we forget how much the natural world means to us.

Edward O. Wilson, *The Environmental Ethic*, 3 HASTINGS W.-NW. J. ENVTL. L. & POL'Y 327, 330-31 (1996) (emphasis added). And if that's too "Enlightenment," there's always Emerson:

Is chemistry suspended? Do not the electricities and the imponderable influences play with all their magic undulations? Do not gravity and polarity keep their unerring watch on a needle and thread[?]. . . . You find the times and places mean. My friend, stretch a few threads over a common Æolian harp, and put it in your window, and listen to what it says of the times and the heart of Nature. . . . Watch the breaking morning, the enchantments of the sunset.

RALPH WALDO EMERSON, NATURAL HISTORY OF INTELLECT 129-30 (AMS Press 1979) (1904). *But cf. infra* note 262 (contemplating the type of thinking that occurs exclusively in rooms).

Assuming for the sake of argument that life and survival are better than [D]eath and [E]xtinction, *but cf. supra* note 35 (positing a mindset in which the former poles of those "dualities" would not be "privileged" in that manner), it's hard to see how Feldman's deviant logic and anti-realist epistemology generate any advantages. They're *supposed to*, of course, intellectually (or at least psychologically) "decenter" the gullible so that the marks will trust the neo-Marxist, class-warfare, anti-individualist CONCLUSIONS of the "decenterers." *Cf. supra* note 21 (quoting George Orwell on Winston's intellectual submission to O'Brien's totalizing political CONCLUSIONS); Arrow, *Messianism*, *supra* note 14, at 170 ("Since reasoning is irrelevant in the postmodern academic world (where only *conclusions* matter), how your law review articles got to their conclusions [is] necessarily . . . ignored."). Except for those with intelligence levels so marginal that the value of their support is nil, however, it doesn't work like that: "Realizing that we

5. Pomo Can Be Political

Finally, Feldman challenges what he apparently concludes is the central thrust of my writing on postmodernism, responding that "the claim that postmodern legal scholars cannot be political advocates is so inaccurate as to be outrageous."¹⁹⁹ "[M]any postmodernists, especially²⁰⁰ deconstructionists, are overtly political,"²⁰¹ he announces. Feldman then hears me braying:²⁰² "Once again," he says, "I can practically hear Arrow exclaiming, 'What hogwash! What about the postmodern critique of normativeness? Doesn't that postmodern nonsense preclude any claims to justice or social change?'"²⁰³

The sentient might conclude that Feldman's either been listening to the *Sounds of Silence*²⁰⁴ or deploying a postmodern hearing "aid."²⁰⁵ They might also conclude that those colorful descriptions are more appropriate under the circumstances than the more benign name, "straw man."

What Arrow might say (sing?) is that "the postmodern nonsense" is "insincere, hypocritical, largely uttered for its 'decentering' effect,"²⁰⁶ and few in or out of the Pomo Corps have taken it seriously at purported face value for decades."²⁰⁷ Arrow might also inquire: "Do you *really* expect us to swallow that 'critique of normativeness' stuff whole, as the only thing in the postmodern pantheon to be taken *literally* (whatever that means), as *sincerely proffered*, as non-irony laden, and as (*gasp!*) TRUE?" Arrow might wonder: "At

lack a godlike perspective on the world . . . leaves us exactly where we were before." MacFarquhar, *supra* note 39, at 68 (quoting Stanley Fish).

199. Feldman, *supra* note 21, at 2358.

200. By virtue of a prescription he put forward only last year (which Feldman fully understands was by no means original, see Feldman, *supra* note 14, at 53), apparently *all* postmodernists *should* be deconstructionists. See *id.* (criticizing James Risser's approach to harmonizing Gadamerian hermeneutics with Derridean deconstruction as "primarily Gadamerian").

201. Feldman, *supra* note 21, at 2358-59.

202. See generally *supra* note 131 (quoting Richard Rorty on Authority, "philosophers," and donkeys).

203. Feldman, *supra* note 21, at 2359.

204. SIMON & GARFUNKEL, *The Sounds of Silence*, on WEDNESDAY MORNING, 3 A.M. (Columbia Records 1964) ("Hello darkness my old friend . . .").

205. Cf. RULES FOR POSTMODERNISTS, *supra* note 4, No. 136 ("Misread.").

206. See *supra* note 198 (providing a condensed explanation of the effect it's *supposed* to have); Arrow, *Pomobabble*, *supra* note 2, *passim* (providing a more rich, textured, nuanced, and comprehensive treatment of the matter).

207. Cf. L'HEUREUX, *supra* note 3, at 30 (quoting Kurtz: "Robbie[s] hung up on THEORY—he thinks THEORY is what's in question here, RATHER THAN THE LARGER PICTURE, WHICH, NEEDLESS TO SAY, HE DOESN'T GET . . ." (emphasis added)).

what level of reader intelligence does Feldman think he can persuade that he (and/or other postmodernists) have dedicated their lives to generating millions of pages of pomo out of an abiding and pious desire to write their forty-ninth 'Gadamer and Standpoint Interpretation' article for the *Journal of Hermeneutics and Humanities*,²⁰⁸ or an equally fervent abstract commitment to the pure principle of anti-realist, anti-empirical, crypto-mystical standpoint epistemology?" Arrow might genuinely be suspicious about whether Feldman wrote *An Arrow* without ever reading (or at least understanding) The Arrow's work.

Were those questions (and observations) too subtle, Arrow might²⁰⁹ respond to Feldman more directly: "Your assertion *understates* its own potential force by orders of magnitude." Or phrased another way, "THE PART OF POMO THAT'S NOT SMOKE AND MIRRORS (AND THE SMOKE AND MIRRORS PART INCLUDES THE NAMES) IS NOTHING *BUT* LEFTY POLITICS, STEVE."

[Wow, it's *rough* to be forced to make such sweeping concessions; I really got my tail kicked on *that* one.]

D. Feldman the Modernist

Perhaps especially after coming through a section like the last one, let's consider a final ironic²¹⁰ possibility: that Feldman, too, is a rational, Enlightenment modernist who's *himself* parodying law-school pomo. After all, in *Pomobabble*, it took me two-hundred-plus pages to explore it comprehensively (though I admittedly delved deeper into the postmodern psyche than did Feldman²¹¹), while Feldman exposed most of its hypocrisies and absurdities in a tenth that. Is his spectacular (and on the fundamental issue, total) misinterpretation of my work supposed to parody the postmodern penchant to *misread*? And reading a representative sampling of Feldman's work reveals an over-the-top, *hyper*-Enlightenment

208. Cf. James R. Squire & Barbara L. Squire, *Editor's Note* to Olivia Coolidge, *The Trickery of Hermes*, in GREEK MYTHS AND LEGENDS 34 (James R. Squire & Barbara L. Squire eds., 1967) ("Hermes . . . began his career as God of Thieves on the day he was born."); Coolidge, *supra*, at 38 (quoting Hermes, addressing Apollo, after Apollo had discovered his theft and dissembling: "Wait, listen . . . ' and he pulled out his lyre."); Arrow, *Pomobabble*, *supra* note 2, at 564 (defining "Hermes"—in Pomoland: "the possessor (are you following me?) of the greatest lyre of them all"). See generally Arrow, *supra*, at 566 (defining "interpretation"—in Pomoland: "see 'Hermes'").

209. See *supra* notes 154, 195 (commenting on Feldman's "perhaps").

210. See RULES FOR POSTMODERNISTS, *supra* note 4, No. 240 ("Take irony for granted."); cf. *id.* No. 37 ("Don't despair at the absurd, go with it.").

211. "I felt as though . . . I were about to set off for the centre of the earth." CONRAD, *supra* note 20, at 27.

touch: having discovered early on a phenomenon that can't be fully described clearly (as at least pomo's mystical components, of course, cannot be²¹²), Feldman's now devoted most of his career to trying to *explain it clearly*²¹³ (at least, he *claims* as much²¹⁴)—over and over again.

We might well recognize in the background of that apparently immutable commitment a rather Enlightenment instinct to carefully examine (and rationalize) previously unexplainable phenomena to abate a fear of the unknown.²¹⁵ And paradoxically, Feldman's Derridean instinct to (at least profess to) Redeem the World by Saving "Marginalized Others" from the hegemony of the privileged (which is manifestly the Big Idea that Possesses him)²¹⁶ exhibits what may perhaps²¹⁷ be a subconscious desire for a rather comprehensive and totalizing Order²¹⁸ (which *also* often accompanies an exaggerated fear of the unknown). Apparently (at least purportedly), Feldman's also willing to chuck into the *abyeme*²¹⁹ anything in

212. *But cf.* Arrow, *Pomobabble*, *supra* note 2, at (giving it a try); *id.* at 521-39 n.29 (exploring related psychological issues).

213. *See* Feldman, *supra* note 21, at 2365 n.54.

214. And we all take him *literally* (whatever that means to a postmodernist), don't we? *Compare, e.g.,* DERRIDA, *supra* note 92, *passim*, with BROOKS, *supra* note 107, at 132 ("What [Whitman] loved especially in the seething AMERICAN population was its freedom, its alertness, its freshness and turbulent good nature, THE CLEAR EYE THAT LOOKED STRAIGHT AT YOU." (emphasis added)), and *id.* at 129 (emphasis added):

Whitman delighted in Carlyle, much as [Whitman] disliked . . . Carlyle's reactionary doubts and fears. He felt that nations, like individuals, learned most . . . from a sincere opponent, from the light thrown even scornfully on [their] dangerous spots, and that . . . America needed the warnings and threats of this CANDID . . . enemy of the democratic programme.

215. Of course, others might feed the same instinct with mystical surrender and submission. *See* DANIEL BOORSTIN, *THE DISCOVERERS* 408 (1983) (quoting Roger Fry).

216. *See, e.g.,* Feldman, *supra* note 21, at 2358-59; Feldman, *supra* note 14, *passim*; *cf.* ALFRED J. AYER, *LANGUAGE, TRUTH, AND LOGIC* 45 (Dover Publications, Inc., 2d ed. 1946) (1935) ("If the author writes nonsense, it is because he considers it most suitable for bringing about the effects for which his writing is designed.").

217. *Cf.* Feldman, *supra* note 21, at 2375 n.96 ("Perhaps . . .").

218. *Cf.* JANE AUSTEN, *EMMA* (Barnes & Noble Press 1996) (1815) (contemplating the hubris of immaturity); L'HEUREUX, *supra* note 3, at 223 ("There were lives . . . out of balance. Fates not yet enacted. Ultimates unachieved. Olga, like academics everywhere, was experiencing the need for closure."). *But cf.* Martin H. Redish & Gary Lippman, *Freedom of Expression and the Civic Republican Revival in Constitutional Theory: The Ominous Implications*, 79 S. CAL. L. REV. 267, 310 (1991) ("The . . . transformation of one's personal ideal, impulses, and values into an external structure that others are meant to inhabit is a familiar temptation for scholars. Unfortunately, the projectors of such worlds too often 'stack the deck' from the outset, reserving the privilege of control for themselves."); Arrow, *Pomobabble*, *supra* note 2, at 660-61 (defining "totalitarianism"—in Pomoland).

219. *See supra* notes 157-65 and accompanying text. *See generally* J. Hillis Miller, *Stevens Rock and Criticism as Cure* (pt. 1), 30 GA. REV. 5, 11 (1976) ("*Abyeme* is an older variant of the modern French *abîme*, from late Latin *abyssus*, from Greek *abussos*, without bottom.").

pomo that he *can't* explain clearly.²²⁰ (At least *pseudo*)-modernist, to the core.

And what about his dismissive characterization of *Pomobabble's* sources, as merely "famous literary figures who have, at most, TENUOUS CONNECTIONS TO LAW AND JURISPRUDENCE?"²²¹ I thought that "policing the borders" stuff was passé,²²² and even though Feldman seems to think so at other junctures,²²³ perhaps he's a bit conflicted on the subject. [And anyway, by citing the words of the "famous literary figures" *themselves* (and not only their "hermeneutic" *interpreters*), I thought I'd be *elevating* the law-and-literature discourse, which now seems to be overrun by law professors with graduate-level training in English and Comp Lit who've learned nothing about the human condition (and psyche) from great literature—but whatever there is to know (such as it is) about reader-response "interpretation" (and deconstruction) from their pomozed grad-school professors.²²⁴]

220. " 'Fear of the unknown,' diagnoses *this* gray eminence . . ." PYNCHON, *supra* note 35, at 860 (emphasis added).

221. Feldman, *supra* note 21, at 2355 (emphasis added).

222. Arrow, *Pomobabble*, *supra* note 2, at 465 n.10 (quoting John McGowan noting the post-modernist argument that disciplines attempting to *preserve* their autonomy were the product of "mixed motives"—or worse); Mootz, *supra* note 35, at 394 ("At a philosophical level the closure of law is a denial . . . of the substance of legal tradition . . ."); Feldman, *supra* note 21, at 2371-72 (quoting Jack Balkin: "[I]nterdisciplinary scholarship seems to be all the rage.").

And wow! Is that rage ever "complex!"

Stanley Aronowitz misuses the term "unified theory." The feminist theorist Luce Irigaray deplores mathematicians' neglect of spaces with boundaries, though there is a huge literature on the subject. The English professor Robert Markley calls quantum theory nonlinear, though it is the only known example of a precisely linear theory. And both the philosopher Michael Serres . . . and arch-postmodernist Jean-François Lyotard grossly misrepresent the view of time in modern physics.

Stephen Weinberg, *Sokal's Hoax*, N.Y. REV. BOOKS, Aug. 8, 1996, at 11, 12. *Compare id. with*, e.g., Arrow, *Pomobabble*, *supra* note 2, at 543-44 n.30 (quoting Weinberg, Stephen Toulmin, John Van Neumann, on Louis Narens defending empiricist theories of knowledge), and *infra* note 237 and accompanying text (perhaps wondering whether the law-and-literature folks have *read—or understood—any* great literature). *But cf.* L'HEUREUX, *supra* note 3, at 183 (" 'Oh, don't be stuffy,' Eleanor said.").

223. *See supra* note 222.

224. *Cf.* Lintrichia, *supra* note 5, at 64 (emphasis added):

I believe that what is now called literary criticism is a form of Xeroxing. Tell me your theory and I'll tell you in advance what you'll say about any work of literature, *especially those you haven't read*. Texts aren't read; they are preread. *All of literature is x and nothing but x*, and literary study is the *naming (exposure) of x*. For x, read imperialism, sexism, homophobia, and so on.[:]

RULES FOR POSTMODERNISTS, *supra* note 4, No. 328 ("Read classics and comics the same way."). And now you've just learned everything there is to know, too—without either the waste of time or the Ivy League (or, at least formerly, Duke's) grad-school tuition.

But then, enough about Feldman. It's time to talk about *me*.²²⁵

E. Arrow the Postmodernist

Perhaps²²⁶ I *am* a postmodernist (as Feldman, in a half-hearted attempt to "flip" me, suggests at one point²²⁷)—or at a minimum, perhaps whether I'm a postmodernist or not is an "interesting" question. To take off on Bill Clinton's most famous postmodern aphorism, it would all depend on what the meaning of the word "postmodernism" is, wouldn't it?²²⁸ Obsessed as he is (and as he *must be* by virtue of his professed "talk-about-talk" epistemo/ontology (to continue to exist himself²²⁹)) with **names**, and desperate that the pomo brand **name** not die, he at one point **names . . . well, EVERYTHING "postmodern."**²³⁰ But by that approach, even the legal pad I'm now writing this on fits the definition, so we might just as well **name** it (whatever it is) "universe"—or "The Arrow"—or "Steve."

Nor can "postmodernism" be interdisciplinary legal scholarship, since though it's *useful* to pomo (*especially*, for "decentering" purposes, the bad stuff²³¹), there's nothing distinctively pomo about

225. Cf. RULES FOR POSTMODERNISTS, *supra* note 4, No. 2 ("Implicate yourself in every interpretation."); *id.* No. 66 ("Do something, anything, to attract highly-mobile capital."); *id.* No. 150 ("Fight for attention.").

226. You know the routine by now.

227. See Feldman, *supra* note 21, at 2368-71.

228. Cf. Megan Rosenfeld, *Scandal's Legacy: The Trite and the True*, WASH. POST, Feb. 6, 1999, at C1, available at 1999 WL 2197952 (quoting Clinton: "It depends on what the meaning of the word 'is' is."); Janet Tassel, *The 30 Years' War*, HARV. MAG., Sept.-Oct. 1999, at 99 (quoting Roman Martinez: "President Clinton would fit in wonderfully with the [Harvard] English Department . . .").

229. See *supra* note 56 (quoting *Rules for Postmodernists*: "[L]anguage composes you."); *supra* note 154 (quoting Feldman on the epistemological and perhaps ontological centrality of talk). See generally DOSTOEVSKY, *supra* note 16, at 137 ("They're paper people . . . ' Shatov observed calmly . . .").

230. See Feldman, *supra* note 21, at 2369-70.

231. See *supra* note 222 (identifying the tip of the iceberg, and commenting on same); cf. Lentricchia, *supra* note 5, at 65:

An advanced literature department is the place where you can write a dissertation on Wittgenstein and never have to face an examiner from the philosophy department. [NOTE TO FRANK LENTRICCHIA FROM THE STILL marginally AUTONOMOUS DISCIPLINE OF LAW: THERE'S THIS CONCEPT CALLED "ASSUMING FACTS NOT IN EVIDENCE". . . .] An advanced literature department is the place where you may speak endlessly about gender and never have to face the scrutiny of a biologist [BETTER], because gender is just a social construction, and nature doesn't exist.

it.²³² Nor can it be the Gadamerian "hermeneutics," since that one's not even Gadamerian, but traces back at least to the reign of Gordian III,²³³ if not to primitive mystics and Hermes' lyre.²³⁴ Nor the epistemological agnosticism,²³⁵ since that one also traces back to the ancients,²³⁶ and because nobody's thought (at least since fifth grade²³⁷) that he could "prove" that the sun was hot on the basis of an epistemology that as a *premise* rejected empiricism as the answer.²³⁸ As if it even mattered.²³⁹ And Feldman's sent everything else over the cliff.²⁴⁰

So is there anything that's left that's "postmodern?" And if not, *why do we need the name?* And if we don't (and in consequence Feldman no longer needs to be talked about), can he continue to *exist*, given his talk-about-talk epistemology and ontology?²⁴¹

*Poof!*²⁴²

232. See Feldman, *supra* note 21, at 2372 ("[I]nterdisciplinary scholarship is not unique to the postmodern era.")

233. See TOLSTOY, *supra* note 6, at 64 n.4 (tracing "[P]ro captu lectoris habent sua fata libelli"—central to pomo's "reader response" "interpretation" (with or without the Gadamerian mysticism)—to Terentianus Maurus, writing c. 240 A.D.).

234. See Arrow, *Pomobabble*, *supra* note 2, at 494-501 n.24; *supra* note 208.

235. See Feldman, *supra* note 21, at 2370 ("Postmodern theorists . . . stress . . . that truth and knowledge are not grounded on an objective foundation.")

236. See Arrow, *Pomobabble*, *supra* note 2, at 512 n.29 (commenting on Hume, Kant, Berkeley, the Talmud, Plato, *zen*, and the fourth-century B.C. Taoist Zhuang Zi).

237. See *supra* note 21 (nostalgically reminiscing); cf. RULES FOR POSTMODERNISTS, *supra* note 4, No. 205 ("Manufacture nostalgia.")

238. And postmodernists—*spare* me (and future readers) the Clintonesque response about the meaning of the word "hot," *puhleeeeeze?* [Don't hold your breath; stuff like that being *all they've got*—they *can't*. And who said (doublethink with me for a moment here . . .) that it had to be *interesting?*]

239. See *supra* note 198 (quoting Stanley Fish on the nonexistence of any consequences flowing from the truth, falsity, or Steviness of postmodern talk-about-talk epistemology).

240. See *supra* notes 154-66 and accompanying text. See generally RULES FOR POSTMODERNISTS, *supra* note 4, No. 345 ("Downsize.")

241. Cf. *supra* note 21 (quoting Feldman on epistemology, and *perhaps* ontology); *supra* note 59 (quoting Feldman on ontology); *supra* note 154 (commenting on Feldman's impersonation of Gadamer); *supra* note 38 (quoting *Rules for Postmodernists*: "Play language games—*Your identity depends on it.*"); NIETZSCHE, *supra* note 56, at 89 ("[W]HEN YOU LOOK LONG INTO AN ABYSS, THE ABYSS ALSO LOOKS INTO YOU." (emphasis added)). See generally APOCALYPSE NOW (Paramount Pictures 1979) (quoting Kurtz: "THE HORROR. THE HORROR." (emphasis added)).

242. Cf. VIRGIL, THE AENEID bk. V, at 126 (C. Day Lewis trans., Anchor Books 1953) ("*These words: then he vanished, like a wisp of smoke, into thin air.*" (emphasis added)). See generally *supra* note 198 (exploring the "so what?" question); Stanley Fish, *Consequences*, in AGAINST THEORY: LITERARY STUDIES AND THE NEW PRAGMATISM 106, 110 (W.J. Mitchell ed., 1985):

Theory [and by this Fish means "theory"] . . . will never succeed . . . because the primary data and formal laws necessary to its success will always be spied or picked out from within the contextual circumstances of which they are supposedly independent. The objective facts and rules of calculation that are to ground interpretation and render it principled are themselves interpretive products: they are therefore, always and already contaminated by the interested judgments they claim to transcend.[.]

F. An Extra Inning

But how can we forget Feldman's (and most other pomooers') *Deconpomo* [by Jove, another name?], with its monotonic and divisive ululations²⁴³ about victimology, class warfare, anti-individualist biopolitics, and "Marginalized Others"?²⁴⁴ But is *that* even distinctively "pomo"? If Feldman thinks that it is, is all that's left of "pomo" *deconstruction*?²⁴⁵

If it is, we'll deal with that in short order. But for now, we might ask: even if that's the best Feldman *did*, is that really the best he (or someone else) *could do*?²⁴⁶ Francis Mootz, for example, might be on to something with his prescription for "dialogic openness,"²⁴⁷ and his warning that anything claiming the "pomo" name becomes dysfunctional "when it becomes an exercise in self-assertion," devoid of a willingness to "put . . . one's own prejudices at risk."²⁴⁸ [You don't need either pomo or Gadamer's mystical dualism (which, as is customary with mystical dualisms, resolves itself

Miller, *supra* note 219, at 14 ("The House That Jack Built' turns back on itself, a snake with a tail in its mouth, or a snake almost succeeding in getting its tail in its mouth."); DAVID EDGAR, MARY BARNES 50 (1979):

DOUGLAS: All right. Shall we stop pretending?

HUGO: Yes. . . . Stop pretending what?

DOUGLAS: Well, for a start, let's drop this crap about no rules.

HUGO: Go on.

DOUGLAS: I will. Rule one. There are no rules. Rule two. It is against the rules to acknowledge rule one. Rule three. It is against the rules to acknowledge the existence of rules one or two.[]

JOSEPH HELLER, *CATCH-22*, at 55 (Dell Publishing Co. 1961) (1955) ("That's some catch,' [Yossarian] observed. 'It's the best there is,' Doc Daneeka agreed. Yossarian saw it clearly in all its spinning reasonableness.").

243. Cf. MANN, *supra* note 30, at 245 (quoting you-know-who, on you-know-where):

True it is that inside these echoless walls it gets right loud . . . and by much overfilling the ear with screeching and beseeching, gurgling and groaning, with yauling and bawling and caterwauling, with . . . racking ecstasies of anguish no man can hear his own tune, for that it smothers in the general, in the . . . trills and chirps lured from this everlasting dispensation of the unbelievable combined with the irresponsible.

244. Cf. Feldman, *supra* note 14, *passim* (defending the relationship between what Gadamer names "philosophical" hermeneutics and Derridean deconstruction).

245. Alternatively, might Decon be Left of pomo? Cf. *infra* notes 246-60 and accompanying text.

246. Cf. Balkin, *supra* note 28, at 135 n.50 (invoking Ronald Dworkin's suggestion that critics should try to improve weak arguments before declaring them deceased).

247. *Supra* note 140 (quoting Mootz).

248. Mootz, *supra* note 35, at 395; see also Balkin, *supra* note 28, at 135 n.50 (citing Hans-Georg Gadamer in support of the identical proposition).

into mystical monism) to get there,²⁴⁹ but if that's what floats Mootz's boat, that's OK.] And speaking of mystical dualism, Danah Zohar has carried Mootz's (and Gadamer's) point so much further than they have that she might even cause Mootz to rethink Gadamer's *limitations* as a subject for lifelong study.²⁵⁰ (In the process of offering her *authentically* non-dualistic observations, Zohar also "flips" Larry Tribe's "new physics" metaphor):²⁵¹

The SPLIT between *mind* and *body* . . . gave rise to the dichotomy between extreme subjectivism (a world without objects) and extreme objectivism (a world without subjects). . . . Freud assumed that the inner was real and accessible, while the outer was all projection, and many strains of mysticism mirrored this view At the other extreme, Behaviourism assumed the outer was real but denied the relevance of the inner. It became psychology without the psyche.

The SPLIT between the *individual* and his *relationships* led on the one hand to an exaggerated individualism, to a selfish will to power . . . and on the other to an enforced communitarianism like that of Marxism

The SPLIT between *culture* and *nature* led both to relativism of all sorts—factual, moral, aesthetic and spiritual (value judgements)—and to dogma and extreme fundamentalism. . . .

The mechanical world-view fails, ultimately, because it does not work towards a greater, ordered coherence. It reflects neither the intuitions nor the personal needs of most people

The mechanical world-view . . . owes most to the dualist philosophy of Descartes and the mechanistic physics of Newton. . . .

. . . [T]he quantum world-view transcends the dichotomy between human culture and Nature, and indeed imposes the constraint of the natural upon the ultimate success of the cultural.

. . . It gives us a view of the human SELF . . . [which] is *free* and *responsible*²⁵²

Might *this* be the basis for a "new" postmodernism, since the old, linear-thinking Decon one's closer to putrefaction than *rigor*

249. *Truth and Method*, for those fortunate souls who've not found it necessary to read the book.

250. But don't bet on it. He's pretty heavily invested. *But cf. infra* notes 279-80 (quoting everybody, including Gadamer, hermeneutically deconstructing themselves—and each other).

251. Compare Laurence H. Tribe, *Seven Deadly Sins of Straining the Constitution Through a Pseudo-Scientific Sieve*, 36 HASTINGS L.J. 155 (1984), with Laurence H. Tribe, *The Curvature of Constitutional Space: What Lawyers Can Learn from Modern Physics*, 103 HARV. L. REV. 1 (1989) (sinning).

252. DANAH ZOHAR, *THE QUANTUM SELF* 217-20 (1990) (emphasis and emphasis to title added) (ellipses between paragraphs omitted).

mortis? No, how could I forget? It would just be "bad" postmodernism,²⁵³ since to abandon Foucault's Power Paradigm is as unthinkable as freedom and responsibility themselves. (After all, that paradigm brought both him and his acolytes such joy!²⁵⁴) And *mon dieu!* Look at Zohar's "principles, conditions, or elements":²⁵⁵

1. The SELF? Isn't that precisely the kind of evil, individualist, Ronald Reagan kind of stuff that Jack Balkin warned us about a decade ago?²⁵⁶
2. And NATURE? And FREEDOM? And RESPONSIBILITY?
3. In short, what about the POWER PARADIGM and DECONSTRUCTION, Foucault and Derrida?²⁵⁷

253. See *supra* note 197 (quoting Feldman noting the existence of such a phenomenon); *supra* note 83 (citing Jack Balkin, agreeing).

254. Cf. Arrow, *Pombabble*, *supra* note 2, at 586-91 n.39 (discussing Foucault's "happiness," and "love"); *supra* note 160 (same); PYNCHON, *supra* note 35, at 483 (reproducing the lyrics to *Victim in a Vacuum*):

Nur . . . ein . . . Op-fer!
 Sehr ins Vakuum,
 Wird niemand ausnut-zen mich, auch?
 Nur-en Sklave, ohne Her-rin (ya-ta, ta-ta)
 Wer zum Teufel die Freiheit, braucht? [:]

TOM LEHRER, *The Masochism Tango*, on SONGS AND MORE SONGS BY TOM LEHRER (Rhino Entertainment Co. 1997):

Your heart is hard as stone or mahogany
 That's why I'm in such exquisite agony.
 My soul is on fire,
 I'm aflame with desire,
 As we dance to the *Masochism Tango*.[:]

HEINLEIN, *supra* note 21, at 351:

With an *ugh* and a groan, and a kick of the heels,
 Death comes quiet, or it comes with squeals—
 But the pleasantest place to find your end
 Is a cup of cheer from the hand of a friend! [:]

PYNCHON, *supra* note 35, at 844 (narrating Blicero's final thoughts about Gottfried, a few moments before Blicero's [D]eath: "[Y]our immortality rips at my heart—can't you see why I might want to destroy that *stupid clarity* in your eyes. . . ." BLICERO HAS ALWAYS MADE THE DECISIONS." (emphasis added)).

255. See *supra* text accompanying note 144 (quoting Aristotle).

256. Cf. Balkin, *supra* note 14, at 1970-71 (dissing Reagan as a bad postmodernist).

257. See Feldman, *supra* note 14, *passim* (defending same). Compare Feldman, *supra*, with Dan Froomkin, *Derrida's Presence Proves Prestigious*, ORANGE COUNTY REG., May 9, 1993, at B2 ("Derrida teaches for only 15 days [a year] at UCI. . . . [H]is office [on the Irvine campus] . . . has no books in it."), and DELILLO, *supra* note 121, at 290-93 (quoting dialogue between J.A.K. and Murray) (emphasis added):

"Are you saying that men have tried throughout history to cure themselves to [D]eath by killing others?"

"To plot is to live," he said.

"Are you saying a dier can become a killer?"

"I'm only a visiting lecturer. I theorize. . . . I have my students, my rented room, my TV set. I pick out a word here, an image there." [.]
 and *id.* at 291 (quoting Murray) (emphasis added):

"Nothingness is staring you in the face. . . . The killer . . . attempts to defeat his own [D]eath by killing others. . . ."

I looked at him, amazed. He drew contentedly on his pipe, making hollow sounds.

"Be the killer for change. Let someone . . . replace you . . . in that role. . . . KILL TO LIVE." [.]

and L'HEUREUX, *supra* note 3, at 245 (emphasis added) (ellipsis between paragraphs omitted):

The church clock began to sound the hour and for a second they stopped where they were—[Kurtz] with his hands at Rosalie's throat, Gil with his hands at [Kurtz's] throat—and the bell tolled slowly. . . .

. . . [Kurtz] could see only black and he had a terrible pain in his chest. He felt strangely free. [.]

and DELILLO, *supra* note 121, at 314-16 (quoting Mink, then J.A.K., and finally a nun) (ellipses between paragraphs omitted):

"Who shot me?" he said:

"You did."

"Who shot you?"

"You did. . . ."

"What was the point I was trying to make?"

"You were out of control. You weren't responsible. I forgive you."

. . . It was no longer possible to tell whether the blood on my hands and clothes was his or mine. My humanity soared. . . . We came to a [hospital]

"We're shot," I said, lifting my wrist in the air.

"We see a lot of that here. . . ." [.]

and FRANK NORRIS, *McTEAGUE* (Signet Classics 1967) (1899):

Suddenly the men grappled. . . .

McTeague did not know how he killed his enemy, but all at once Marcus grew still. . . . Then there was a sudden last return of energy. McTeague's right wrist was caught; something clicked upon it; then the struggling body fell limp. . . .

. . . Looking down, he saw that Marcus in that last struggle had found strength to handcuff their wrists together. . . . All about [McTeague], vast, interminable, stretched the measureless leagues of Death Valley.

See generally PYNCHON, *supra* note 35, at 770:

Understand it isn't [Enzian's] blackness, but [Katje's] own—an inadmissible darkness she is making believe for the moment is Enzian's, something even beyond the center of Pan's grove, something not pastoral at all, but of the city, a set of ways in which the natural forces are turned aside, stepped down, rectified or bled to ground and come out very like the malignant dead . . . souls whose journey across was so bad that they lost all of their kindness . . . and turned to imbecile killers and jokers, making unintelligible honks in the emptiness . . . a city darkness that is her own, a textured darkness in which flows go in all directions, and nothing begin, and nothing ends. [.]

MANN, *supra* note 2, at 69 ("For a moment I felt myself the older, more mature."); *id.* (quoting a dialogue between the Devil and Adrian) (ellipsis between paragraphs omitted):

"Do you consider love the strongest emotion?" he asked.

"Do you know a stronger?"

"Yes, interest."

"By which you presumably mean a love from which the animal warmth has been withdrawn."

"Let us agree on the definition!" he laughed. "Good night."

4. And most importantly of all: What about "Us"²⁵⁸—and Our roles in Saving the Marginalized²⁵⁹ (or at least, in so POSING²⁶⁰)?

In even *contemplating* a pragmatic [not "pragmatic"], non-linear-thinking pomo (i.e., one without the foreordained Lefty conclusions), The Arrow has flown amok.

V. CONCLUSION

While Heidegger's proto-mysto rhetoric really riled up the proles,²⁶¹ pomo's (even more than CLS's) has a freeze-dried flavor,²⁶²

258. Cf. Arrow, *supra* note 2, at 663, 666 (defining "us" and "we"—in Pomoland).

259. Cf. Lilla, *supra* note 154, at 36:

Academic postmodernism . . . borrows notions freely from the (translated) works of Derrida, Michel Foucault, Gilles Deleuze, Jean-François Lyotard, Jean Baudrillard, Julia Kristeva—and, as if that were not enough, also seeks inspiration from Walter Benjamin, Theodor Adorno, and other figures from the German Frankfurt School. Given the impossibility of imposing any logical order on ideas as dissimilar as these, postmodernism is long on attitude and short on argument. What appears to hold it together is the conviction that promoting these very different thinkers somehow contributes to a[n] . . . emancipatory end, which remains conveniently ill-defined.

260. Cf. CONRAD, *supra* note 20, at 40 (quoting Marlow: "I had never imagined [Kurtz] as *doing*, but as DISCOURSING. . . . The man presented himself as a voice." (emphasis added)); *supra* note 57 (contemplating the Pose of contemporary European "intellectuals"); *supra* note 57 (quoting Walter Benjamin: "To the critic, his *colleagues* are the higher authority . . ."); *supra* note 56 (contemplating the possible effect, *inter alia*, of the above observations on the psyches of post-modern professors, whose professed *Weltanschauungen* may require them to TAKE THEIR "MEANING" FROM THEIR PERCEPTION IN THE EYES OF OTHERS); Arrow, *Pomobabble*, *supra* note 2, at 564 (defining "hollowness"—in Pomoland). See also ABBOTT, *supra* note 136, at 51 ("[O]ur priests are *administrators* of all Business, Art, and Science . . . doing nothing themselves, they are the causes of everything . . . that is done by others.") (emphasis added); DOSTOEVSKY, *supra* note 16, at 56 ("Administrative rapture?"); PYNCHON, *supra* note 35, at 592 ("Now Narrisch here's a guidance man, a guidance man is he. And every day at Rocket Noon there's [D]eath and revelry. . . . But Narrisch has managed, in his time, to avoid nearly all of it.").

261. Cf. WOLIN, *supra* note 49, at 85 ("The consummate fusion of . . . Heidegger's thought may be found in the 1933 Rectorial Address[.] . . . a work, according to Löwith, whose interweaving of Nazi rhetoric with the language of classical philosophy was so extreme that at the end 'the listener was in doubt as to whether he should start reading the pre-Socratics or enlist in the SA.'" (quoting Karl Löwith, *The Political Implications of Heidegger's Existentialism*, NEW GERMAN CRITIQUE, Fall 1988, at 117, 125)).

262. Cf. DELILLO, *supra* note 121, at 306 (quoting a dialogue between Mink and J.A.K.) (emphasis added):

"By coming in here, you agree to a certain behavior. . . ."

"What behavior?"

"ROOM BEHAVIOR. The point of rooms is that they're INSIDE. No one should go into a room unless he understands that. . . . This is what people in rooms *have to agree on*, as differentiated from lawns, meadows, fields, orchards."

[UHHHHH. . . . A postmodern "*interpretive community*?"] But cf. *Breakfast Theory*, *supra* note 49 (quoting Mouse 2, responding to a critical [not "critical"] assessment from Mouse 1 about *Decon-*

perhaps signifying that the "radical" [nostalgic?] Left is so imaginatively exhausted and politically impotent that it may be preparing for non-empirical, group-think, talk-about-talk space travel.²⁶³ When it comes time to deliver the punch lines of his essay, Feldman's rhetoric fits well into that tradition:

[M]any postmodernists, especially deconstructionists,²⁶⁴ are overtly political. Indeed, one could fairly characterize deconstruction as being primarily concerned with justice.²⁶⁵ By demonstrating the illegitimate privileging within binary oppositions, deconstructionists uncover the marginalized Other. That is, deconstructionists reveal that certain viewpoints, values, interests, individuals, and traditions are either ignored, denied, or oppressed in the name of the privileged.²⁶⁶

Well, yes . . . we know.

As Terry Eagleton has noted, one dying-gasp strategy of an intellectually-bankrupt Left might be to take its class struggle where it can find it. So the theory fronting the praxis (or is it the other way around?) might be to "celebrat[e] . . . the marginal and minority as positive *in themselves*,"²⁶⁷ a seemingly promising view for the second or two that it takes (at least non-postmodernists) to realize that margins "currently include neo-Nazis, UFO buffs, . . . those who believe in lashing adolescents until the blood runs,"²⁶⁸ and everybody up to and including sundry sociopaths, serial axe-murderers, and the Taliban. (For that matter, it also includes the international bourgeoisie.²⁶⁹)

And for answering the Big Question, "WHO SHALL DECIDE WHAT IS GOOD AND WHAT IS EVIL?,"²⁷⁰ and its attendant questions

struction Breakfast Food Product: " 'Pretty dry and flavorless, isn't it?' 'Your question is informed, or should I say misinformed, by the conventional bourgeois cereal paradigms that center on such outmoded esculatory notions as taste, nutrition and edibility.' "

263. Cf. Milner S. Ball, *The City of Unger*, 81 NW. U. L. REV. 625, 626 (1987) ("The substance [of Roberto Unger's] *Politics* is milk and honey processed into an unpalatable powder, freeze-dried by . . . the humorless demands of space travel."); Arrow, *Pomobabble*, *supra* note 2, at 621-27 n.45 (imagining a postmodern "constitutional" journey to Mars); HEINLEIN, *supra* note 21, at 297 ("On Mars there is *never* anything to laugh at. All the things that are funny to us humans either cannot happen on Mars or are not permitted to happen. . . . 'Freedom' doesn't exist on Mars; everything is planned by the Old Ones . . . "). See generally ALINSKY, *supra* note 123, at 75 ("A sense of humor is incompatible with the complete acceptance of any dogma, any . . . political . . . prescription for salvation.").

264. Who, of course, are the only ones that Feldman thinks should count. See Feldman, *supra* note 14, *passim*.

265. And to a deconstructionist, of course, "justice" (although predictably amorphous, see *supra* notes 257-58), is pretty much anything at least thirty degrees to the Left of Maxine Waters, Bernie Sanders, and Barney Frank.

266. Feldman, *supra* note 21, at 2359 (de-emphasis added).

267. TERRY EAGLETON, *THE ILLUSIONS OF POSTMODERNISM* 3 (1996) (emphasis added).

268. *Id.*

269. *Id.*

270. JERZY KOSINSKI, *BLIND DATE*, at vii (1977) (quoting Jacques Monod) (emphasis added).

about what components of marginality should be celebrated and what components accommodated, tolerated, discouraged, or prohibited, we *do* have an institutional system that operates on the assumption that there's a difference between legislative and judicial power.²⁷¹ While the line between the two might not be as bright as plain-meaning positivists might like, the American people are not fools, and when they come to believe that their judges (of whichever persuasion) have departed for hermeneutic la-la land, they know well how to remedy that situation either at the ballot box or through the confirmation process²⁷²—no matter what Gadamer, Derrida, or Professor Stephen Feldman might think.

That being the case, what kind of magic²⁷³ does Feldman expect his (and most law-school pomooers') Deconpomo to work? To privilege his political preference that . . . well, perhaps that governmental entities should do more stuff (of whatever kinds) for [to?²⁷⁴] "Marginalized Others" (whoever "they" are ²⁷⁵), or that eve-

271. Compare, e.g., U.S. CONST. art. I (legislative power), with U.S. CONST. art. III (judicial power).

272. See, e.g., *Planned Parenthood v. Casey*, 505 U.S. 833, 1000 (Scalia, J., dissenting): [I]f . . . our pronouncement of constitutional law rests primarily on value judgments, then a free and intelligent people[] . . . know that their value judgments are quite as good as those taught in any law school[.] . . . and . . . confirmation hearings *should* deteriorate into question-and-answer sessions in which Senators go through a list of their constituents' most favored and most disfavored constitutional rights, and seek the nominee's commitment to support or oppose them.[:]

cf. Jonathan Ringel, *High-Minded Chat Doesn't End Discord*, NAT'L L.J., July 9, 2001, at A20 (quoting Chuck Schumer categorically endorsing Justice Scalia's contingent imperative).

273. Compare Feldman, *supra* note 4, at 1047 ("[T]o understand the themes of postmodernism, one must *do* postmodernism."), with MARK WILSON, MARK WILSON'S COMPLETE COURSE IN MAGIC 471 (Running Press Books 1988) (1975) ("First, you must learn to *do* magic. . . . [M]any phases of magic, particularly MISDIRECTION and SHOWMANSHIP, apply to small tricks as well as large" (emphasis added)). But cf. BERNHARDT J. HURWOOD, SUPERNATURAL WONDERS FROM AROUND THE WORLD 57 (Barnes & Noble Press 1993) (1972) (noting that a popular Chinese folk tale involves a young scholar whose life is irreversibly altered by a love affair with a ghost).

274. Cf. JILL NELSON, VOLUNTEER SLAVERY: MY AUTHENTIC NEGRO EXPERIENCE 38 (1993) ("It's hard to move forward when you're looking over your shoulder."). But cf. Gary Greenberg, *The Serotonin Surprise*, DISCOVER MAG., July 2001, at 64 (suggesting that serotonin appears to stimulate the production of new brain cells in the hippocampus, allowing more present sense experience to be retained, thereby abating obsessive fixation on the past and reducing depression and its attendant debilitation). [By Jove! Do you suppose that the susceptibility of Deconpomo's marks to its methods—and perhaps Deconpomo itself—could be *cured* through the *scientific method*? Cf. WURTZEL, *supra* note 16, at 334 (describing a *New Yorker* cartoon illustrating "a serotonin-happy Karl Marx declaring, 'Sure! Capitalism can work out its kinks.'").]

275. Anybody who's not a straight white Republican guy? Anybody who's not a Republican? Anybody who's not a straight white guy? Anybody who's a failure and/or unhappy and thinks it's all somebody else's fault? Anybody who's susceptible to *patronization*? Cf. CONRAD, *supra* note 20, at 34 ("[KURTZ] TELLS PEOPLE WHAT THEY WANT TO HEAR. . . . HE MANIPULATES PEOPLE." (emphasis added)); Kennedy, *supra* note 56, at 56 (emphasis added):

rybody should tell "them" (same comment) that their subcultures (whatever "they" are, and no matter what consequences they generate—with "rich," "textured," and "nuanced" exceptions, of course²⁷⁶) are really swell?²⁷⁷ And all that naked-preference privileging's going to get done with *typeface*, *capital letters*, *mysticism*, and *pomobabble*?

We do, of course, have public political discourse about such matters every day, and the extent to which Feldman's specific political prescriptions (if he has any²⁷⁸) are realized in any specific

It is understandable why people have often made inherited *group* status an honorific credential. PERSONAL achievement is *difficult to attain*, and the lack of it often leaves a VACUUM that racial pride can easily fill. Thus even if a person has little to show for him SELF, racial pride gives him *status*.

See generally RULES FOR POSTMODERNISTS, *supra* note 4, No. 297 ("Beware of intellectuals [?] who speak of Otherness only amongst themselves.").

276. Don't even *think* about polygamists. Or the international bourgeoisie. Or . . .

277. One of Aldous Huxley's characters responds to a Nietzschean query [remember, the Po-moers are supposed to *like* Nietzsche] about the frequency of individuals' responsibilities for their own misfortunes, see, e.g., NIETZSCHE, *supra* note 56, at 82, sympathetically—perhaps even (*gasp!*) *pragmatically*. See HUXLEY, *supra* note 4, at 106-07, 110 (emphasis added) (ellipsis between paragraphs omitted):

Pointing out to unfortunate people that, in part at any rate, they were pretty certainly responsible for their own misfortunes; explaining to them that ignorance and stupidity are no less punished by the nature of things than . . . malice—these were never agreeable tasks. Never agreeable, but so far as he could see, always necessary. For what hope, he asked himself, what faintest glimmer of hope is there for a man who really believes that . . . he had no part in his own disasters? Obviously, no hope whatever.

All the same, there must surely be *something* to be done for people like [that] . . .—something that *didn't* entail telling harmful untruths about the nature of things.

"[V]ictim talk . . . creates a self-fulfilling prophecy . . . by suggesting that victims are powerless." Minow, *supra* note 33, at 1420; cf. J. Hillis Miller, *Bleak House*, in TWENTIETH CENTURY INTERPRETATIONS OF BLEAK HOUSE 74, 79 (Jacob Korg ed., 1968):

Richard's error is not to understand that his case can never be finished, to live in the expectation of an end which will settle his life in permanent form: "[I]t can't last for ever. We shall come on for a final hearing, and get judgment in our favour These proceedings will come to a termination, and then I am provided for. . . ." But the nature of these proceedings is precisely to be interminable, as long as the character is alive.

278. Joseph Frank provides Feldman with a few "romantic," "progressive," nineteenth-century-based options to select from; they obviously worked well for the Russians, and they might have a familiar "post"modern, crit, and perhaps "law and literature" ring to the reader:

One group, led by the rising young critic D.I. Pisarev, took Turgenev's Bazarov as their ideal whatever his defects, and became the advocates of a "Nihilism" which came . . . close to justifying . . . destruction for its own sake. But the other group—the followers of Chernyshevsky . . . attacked *Fathers and Sons* as a vicious attempt to malign the new generation. . . .

. . . Chernyshevsky's "new people" . . . are not all Nihilists in Bazarov's sense. . . . The lives of these "new people" have a well-defined *positive* content—the content of Chernyshevsky's own curious and ill-digested amalgam of CRUDE FEUERBACHIAN MATERIALISM AND DETERMINISM, BENTHAMITE UTILITARIANISM AND UTOPIAN SOCIALIST PERFECTIONISM.

detail is determined on an ongoing basis in the political arena. Do Feldman and his co-Deconpomomers have so little confidence in their ability to defend those preferences rationally (assuming that they're stable²⁷⁹) that they're afraid to even *debate* them without eowering playing the Wizard behind their mystically privileging pomo jargon? And if the pomomers cared about actually implementing their Lefty preferences (and not just the locus of their next law-review publication), wouldn't you think they'd heed Saul Alinsky's pragmatic admonition that "a tactic that drags on too long becomes a drag,"²⁸⁰ and switch to something more promising? [Comparative law, to smuggle in European Socialism?²⁸¹ "International law," which *also* allows you to prove pretty much whatever you want with whatever you've got?²⁸² Bruce Ackerman's crypto-postmodern constitutional "moment" "theory," where any event (or perceived event) that you like is a constitutionally-amending "moment," while any event that you *don't* like is not?²⁸³ Made-up "history" (*sometimes*

Joseph Frank, *N.G. Chernyshevsky: A Russian Utopia*, 3 S. REV. 68, 76-77 (1967) (emphasis added). Of course, there might have been just a *touch* of a problem with that—but only in the details, of course:

GIFTLESSNESS, as Dostoevsky feared and Nabokov knew, became the dominant style in Russia; it eventually seized power, and in the process of "making people happy" destroyed them by millions. . . . "The triumph of materialism has abolished matter," the poet Andrei Bely said

Pevear, *supra* note 168, at xvi (emphasis added). [But then, what are empirical *consequences* compared to *Passions*? That diabolic incommensurability problem, yet again?]

279. If Feldman's political preferences are, in fact, immutable (and he's not amenable, say, to open-mindedly considering adopting the Otherness of Pat Buchanan's politics), has he not ignored Gadamer's admonition that the "overlap between hermeneutics and deconstruction" compels him to "risk [his] own prejudices, to recognize 'a potentiality for being other?'" Feldman, *supra* note 14, at 58 (quoting Gadamer). But on the other hand, why should Feldman (or anybody else) take advice from Gadamer? Cf. GADAMER, *supra* note 56, at 579 ("It would be a poor hermeneuticist who thought he could have, or had to have, the last word."). But on the third hand (and hopefully not sounding too Nietzschean), Gadamer "is dead and his intentions are irrelevant." L'HEUREUX, *supra* note 3, at vii (quoting Michel Foucault).

280. ALINSKY, *supra* note 123, at 128.

281. See, e.g., Arrow, *Messianism*, *supra* note 14, at 168-69 & nn.103-05 (providing the plans).

282. But see Dennis W. Arrow, *Seabeds, Sovereignty and Objective Regimes*, 7 FORDHAM INT'L L.J. 169, 169-243 (1984) (dissenting from the stated proposition); Dennis W. Arrow, *The Customary Norm Process and the Deep Seabed*, 9 OCEAN DEV. & INT'L L.J. 1 (1981) (same); Dennis W. Arrow, *The Proposed Regime for the Unilateral Exploitation of Deep Seabed Minerals by the United States*, 21 HARV. INT'L L.J. 337 (1980) (same). See generally *supra* note 56 (commenting on the postmodern penchant for self-promotion).

283. See, e.g., Michael W. McConnell, *The Forgotten Constitutional Moment*, 11 CONST. COMMENT. 115 (1994) (providing one example). But cf. John C. Yoo, *Law as Treaties?: The Constitutionality of Congressional-Executive Agreements*, 99 MICH. L. REV. 757, 761 (2001) (characterizing Ackerman's theory as "idiosyncratic").

you get caught,²⁸⁴ but *mostly* you don't²⁸⁵)? Pseudo-empiricism (if nothing else, it's easy, since 63% of all statistics are made up on the spot²⁸⁶)?]

Or alternatively, if anybody actually cared about what happened to deserving but unusually disadvantaged persons²⁸⁷ (a category radically incongruent with the Deconpomooers' both overinclusive and underinclusive "Marginalized Other" one²⁸⁸) more than Leftist (or whatever) Visions, might it not be productive to engage in political discourse *rationally*—and *pragmatically*?²⁸⁹

284. See, e.g., Walter V. Robinson, *Professor's Past in Doubt*, BOSTON GLOBE, June 18, 2001, at A1, available at, 2001 WL 3938550 (suggesting that Pulitzer Prize-winning "historian" Joseph J. Ellis may have a bit of a problem—in a number of particulars—with, well . . . *making stuff up*); Patrick Healy & Walter V. Robinson, *Professor Apologizes for Fabrications*, BOSTON GLOBE, June 19, 2001, at A1, available at, 2001 WL 3938752 (fessing up to some of the particulars); Arrow, *Messianism*, *supra* note 14, at 158 n.46 (chronicling multiculturalist icon Rigoberta Menchu's rather spectacular autobiographical fraud, and law professor Patricia Williams's infamous "discrimination-at-the-Benetton-store" tale). But on the other hand, maybe this type of "history" is postmodern; how could I forget that for postmodernists, lying either can't exist or for other reasons doesn't matter? See *supra* notes 115-17 and accompanying text; Richard Delgado, *On Telling Stories in School: A Reply to Farber and Sherry*, 46 VAND. L. REV. 665, 675 (1993).

285. Compare, e.g., A. Robert Eckrich, *Sometimes an Art, Never a Science, Always a Craft: A Conversation with Bernard Bailyn*, 51 WM. & MARY Q. 625, 658 (1994) (quoting Bailyn on the dangers of imposing ideology on history), and Michael Kammen & Stanley L. Katz, *Bernard Bailyn, Historian and Teacher*, in THE TRANSFORMATION OF EARLY AMERICAN HISTORY: SOCIETY, AUTHORITY, AND IDEOLOGY 6 (James A. Henretta ed., 1991) ("Bailyn was 'driven into positivism,' as he puts it, by the compelling belief that for scholarship to have integrity it must be verifiable."), with Morton Horwitz, *The Conservative Tradition in the Writing of American Legal History*, 17 AM. J. LEGAL HIST. 275, 277 (1973) (denigrating "the received legal tradition" as "anti-Marxist medicine"), and Stephen B. Presser, *Some Realism About Orphism*, 79 NW. U. L. REV. 869, 878 n.45 (1984-85) (quoting Horwitz: "[H]istory, history is Marxist." (emphasis added)).

286. *Science Friday: Suspect Statistics* (NPR radio broadcast, June 8, 2001) (quoting statistician Joel Best).

287. But cf. ORWELL, *supra* note 21, at 217 ("WE ARE NOT INTERESTED IN THE GOOD OF OTHERS; WE ARE INTERESTED SOLELY IN [P]OWER." (emphasis added)); Kenneth L. Karst, *Paths to Belonging, The Constitution and Cultural Identity*, 64 N.C. L. REV. 303, 307 (1986) (emphasis added):

Imagine right now that someone has asked YOU the question: "Who are you?" Perhaps the reader is a Walt Whitman, who would answer, "I am mySELF, unique in the universe, and I exult in my uniqueness." Most of US, however would likely respond in words premised on the ways in which we are RELATED TO OTHERS

See generally *supra* note 56 (perhaps wondering about the importance of citation count to postmodernists whose talk-about-talk hermeneutics, epistemologies, and ontologies make taking their meaning from their perception in the eyes of others a categorical imperative); *id.* (positing an interesting hypothetical based on the empirical possibility that postmodernists may be wholly socially constructed while the rest of us are not).

288. Jesse Jackson, Jr.? Cokie Roberts? Richard Simmons? See generally *supra* note 275 (contemplating the criteria for "Marginalized Otherness").

289. Remember when "pragmatism" was fallibilistic and concerned with consequences? But cf. *supra* note 23 (quoting Hilary Putnam describing the doublethink drivel that's now falsely marketed under the "pragmatism" brand name).

Of course not: the Passions that Possess²⁹⁰ "Us" might remain unsatiated that way. Instead, "We" get to play Spaceball, and dispense the mantra [it's entitled *Marginalized Other*, so you won't forget the name], over and over again:²⁹¹

Oh Marginalized Other,
Woe, Marginalized Other,
Won't you please just follow me?
Oh Marginalized Other,
Whoa, Marginalized Other,
I'M the "cure" for heh-gem-o-nee.²⁹²

"After that it was oratory—from the balcony. . . . [O]ratory, promises, headlines. And, of course, censorship [and] suppression . . . of all who stood in [the] way."²⁹³

"This was the end of the river, all right."²⁹⁴ "As all diversity is slowly transformed into a bland and motionless homogeneity,"²⁹⁵ "[t]he . . . postmodern listens for the voice of Being; he hears nothing but the rustling of texts turning their own pages."²⁹⁶ "[I]t had *all* been a trick. . . . For all the sound and fury, those grand flights, those tootings, had all, always, at bottom, been only rebop, only the rattle of insects in the dry places of Eliot, signifying nothing."²⁹⁷

"I'm leaving . . . for the unknown. Farewell to you, my unknown, dear readers, with whom I've lived so many pages. . . ."²⁹⁸ "And tomorrow . . . what? Nobody knows. You understand? Neither I nor anybody knows . . . Now it'll be new, never before seen, or imagined."²⁹⁹ "The choice is yours. . . ."³⁰⁰

290. See *supra* note 117 (quoting Morton Horwitz and Stanley Fish).

291. Cf. Arrow, *Pomobabble*, *supra* note 2, at 572 (defining "LINEAR THINKING":—in Pomoland: "straight backwards from the monotonic conclusions to the 'legal authority' " (emphasis added)); *supra* note 4 (quoting Stephen Feldman: "Postmodernism just keeps reproducing itself: the doing of postmodernism seems to occur again and again."). See generally THOMAS SZASZ, *THE MYTH OF MENTAL ILLNESS* 265 (rev. ed. 1974) (emphasis added):

The common and pressing problem today is that, as social conditions undergo rapid change, men are called upon to alter their modes of living. Old *games* are constantly scrapped and new ones started. Most people are totally unprepared to shift. . . . They learn one *game* or, at most, a few, and desire mainly the opportunity to live out life by playing the *same game* OVER AND OVER AGAIN.

292. Dennis W. Arrow, *Marginalized Other*, 54 VAND. L. REV. 2438 (2001).

293. GEORGE SELDES, *WITNESS TO A CENTURY* 400 (1987) (talking about some European guy).

294. *APOCALYPSE NOW*, *supra* note 241 (quoting Willard, contemplating Kurtz).

295. Miller, *supra* note 277, at 82.

296. STANLEY ROSEN, *HERMENEUTICS AS POLITICS* 86 (1987).

297. KEN KESEY, *THE DAY AFTER SUPERMAN DIED* 43 (1980).

298. ZAMYATIN, *supra* note 4, at 188 (emphasis added).

299. *Id.* at 141.

"Now I will do nothing but listen."³⁰¹ "I but advance a moment only to wheel and hurry back into the darkness[,] . . . leaving it to you to prove and define it, [e]xpecting the main things [from] you."³⁰²

Dancer: oh you relaying of every vanishing
into a stride: how you performed it there!
And the twirl at the finish, that tree made of energy,
didn't it fully capture the swing of the year?
Didn't that tree's crown suddenly blossom with quiet
so your whirling could swarm up around it? And over you
wasn't it sun, wasn't it summer, the warmth of it,
this immeasurable warmth, coming from you?³⁰³

"That tone . . . which was the voice of mourning, is no more.
It CHANGES ITS MEANING: it abides as a light in the night."³⁰⁴

300. WILSON, *supra* note 273, at 472.

301. WHITMAN, *supra* note 107, at 47.

302. *Id.* at 11.

303. RAINER MARIE RILKE, SONNETS TO ORPHEUS 91 (C.F. MacIntyre trans., Univ. of Cal. Press 1960) (1922); *cf.* CONRAD, *supra* note 20, at 89-90:

It was a moment of triumph for the wilderness. . . . I remembered his abject pleading, his abject threats, the colossal scale of his vile desires, the . . . tempestuous anguish of his soul. And later on I seemed to see his collected languid manner, when he said one day. . . . "I want no more than justice." He wanted no more than justice—no more than justice. . . . I seemed to hear the whispered cry, "The horror! The horror!"[:]

id. at 84 ("Kurtz DISCOURSED. A voice! A voice!" (emphasis and de-emphasis added)); DUMAURIER, *supra* note 6, at 304 ("[A] voice, and nothing more.").

304. MANN, *supra* note 30, at 491 (emphasis added); *cf.* ORWELL, *supra* note 21, at 273 ("[W]hat is it, this principle that will defeat [U]s?" "The spirit of Man.""); L'HEUREUX, *supra* note 3, at 245 ("Mistah Kurtz . . . he dead.").

